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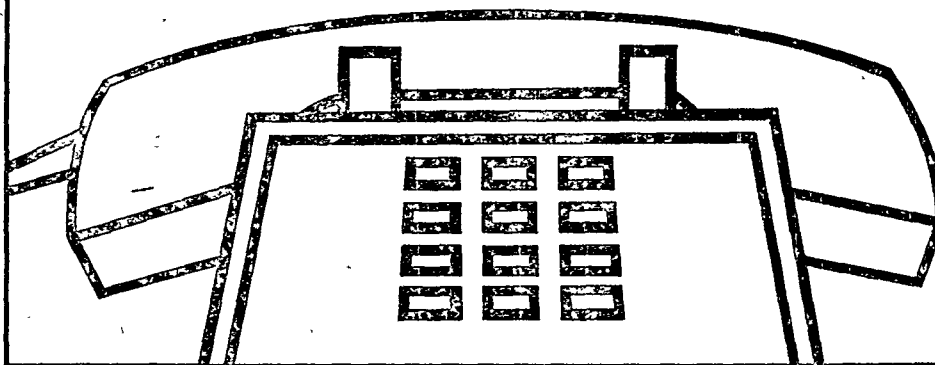
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### List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the *Federal Register*. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: June 29, 1978]

H.R. 5176 ..... Pub. L. 95-303  
 To lower the duty on Isvulose until the close of June 30, 1980. (June 29, 1978; 92 Stat. 346) Price: \$.50.

H.R. 10323 ..... Pub. L. 95-304  
 To amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such Act for fiscal year 1979, and for other purposes. (June 29, 1978; 92 Stat. 347) Price: \$.50.

S. 2373 ..... Pub. L. 95-305  
 Authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes. (June 29, 1978; 92 Stat. 348) Price: \$.50.



[3195-01]

## Title 3—The President

Executive Order 12066

June 29, 1978

### Inspection of Foreign Assistance Programs

By the authority vested in me as President of the United States of America by Section 124 of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 95 Stat. 541) and Section 301 of Title 3 of the United States Code, and in order to assist the Secretary of State in carrying out his responsibilities under Section 622(c) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2382(c)), hereafter referred to as the Act, it is hereby ordered as follows:

#### 1-1. *Assignment of Duties and Responsibilities.*

1-101. I hereby direct the Secretary of State to assign to the Inspector General, Foreign Service, all duties and responsibilities vested in the Inspector General, Foreign Assistance by Section 624(d) of the Act (22 U.S.C. 2384(d)).

1-102. Having determined that all of the authorities vested in the Inspector General, Foreign Assistance, by Section 624(d) of the Act are necessary for the Inspector General, Foreign Service, to carry out the duties and responsibilities assigned to him pursuant to this Order, I hereby authorize the Inspector General, Foreign Service, to exercise all such authorities subject to the provisions of Section 1-2 of this Order.

#### 1-2. *Performance of Duties and Responsibilities.*

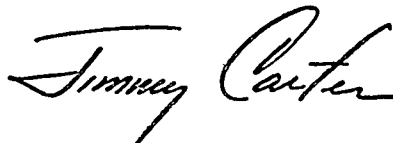
1-201. In carrying out his duties and responsibilities and in exercising his authorities pursuant to this Executive Order, the Inspector General, Foreign Service, shall not duplicate the scope of the audit, investigation and inspection authorities of the other agencies, including those of the Inspectors General of the armed services, and shall concentrate upon matters that have substantial and direct impact upon the responsibilities of the Secretary of State under Section 622(c) of the Act.

1-202. The authority described in Section 624(d)(6) of the Act shall be exercised by the Inspector General, Foreign Service, only with the specific consent of the Secretary of State and in accordance with regulations prescribed by the Secretary of State which, whenever practical, afford the head of any agency whose programs are subject to audit, review or inspection pursuant to such Section a reasonable opportunity to take corrective action before any suspension takes effect.

1-3. *Administrative Matters.*

1-301. The Secretary of State shall provide for the appropriate transfer of offices, entities, property, and records of the Office of the Inspector General, Foreign Assistance to the Office of the Inspector General, Foreign Service.

1-302. This Executive Order is effective July 1, 1978.



THE WHITE HOUSE,  
*June 29, 1978.*

[FR Doc. 78-18685 Filed 6-30-78; 4:22 pm]

[3195-01]

Executive Order 12067

June 30, 1978

**Providing for Coordination of Federal Equal Employment Opportunity Programs**

By virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, including Section 9 of Reorganization Plan Number 1 of 1978 (43 FR 19807), it is ordered as follows:

**1-1. *Implementation of Reorganization Plan.***

1-101. The transfer to the Equal Employment Opportunity Commission of all the functions of the Equal Employment Opportunity Coordinating Council, and the termination of that Council, as provided by Section 6 of Reorganization Plan Number 1 of 1978 (43 FR 19807), shall be effective on July 1, 1978.

**1-2. *Responsibilities of Equal Employment Opportunity Commission.***

1-201. The Equal Employment Opportunity Commission shall provide leadership and coordination to the efforts of Federal departments and agencies to enforce all Federal statutes, Executive orders, regulations, and policies which require equal employment opportunity without regard to race, color, religion, sex, national origin, age or handicap. It shall strive to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations, functions and jurisdictions of the Federal departments and agencies having responsibility for enforcing such statutes, Executive orders, regulations and policies.

1-202. In carrying out its functions under this order the Equal Employment Opportunity Commission shall consult with and utilize the special expertise of Federal departments and agencies with equal employment opportunity responsibilities. The Equal Employment Opportunity Commission shall cooperate with such departments and agencies in the discharge of their equal employment responsibilities.

1-203. All Federal departments and agencies shall cooperate with and assist the Equal Employment Opportunity Commission in the performance of its functions under this order and shall furnish the Commission such reports and information as it may request.

**1-3. *Specific Responsibilities.***

1-301. To implement its responsibilities under Section 1-2, the Equal Employment Opportunity Commission shall, where feasible:

(a) develop uniform standards, guidelines, and policies defining the nature of employment discrimination on the ground of race, color, religion, sex, national origin, age or handicap under all Federal statutes, Executive orders, regulations, and policies which require equal employment opportunity;

(b) develop uniform standards and procedures for investigations and compliance reviews to be conducted by Federal departments and agencies under any Federal statute, Executive order, regulation or policy requiring equal employment opportunity;

(c) develop procedures with the affected agencies, including the use of memoranda of understanding, to minimize duplicative investigations or compliance reviews of particular employers or classes of employers or others covered by Federal statutes, Executive orders, regulations or policies requiring equal employment opportunity;

(d) ensure that Federal departments and agencies develop their own standards and procedures for undertaking enforcement actions when compliance with equal employment opportunity requirements of any Federal statute, Executive order, regulation or policy cannot be secured by voluntary means;

(e) develop uniform record-keeping and reporting requirements concerning employment practices to be utilized by all Federal departments and agencies having equal employment enforcement responsibilities;

(f) provide for the sharing of compliance records, findings, and supporting documentation among Federal departments and agencies responsible for ensuring equal employment opportunity;

(g) develop uniform training programs for the staff of Federal departments and agencies with equal employment opportunity responsibilities;

(h) assist all Federal departments and agencies with equal employment opportunity responsibilities in developing programs to provide appropriate publications and other information for those covered and those protected by Federal equal employment opportunity statutes, Executive orders, regulations, and policies; and

(i) initiate cooperative programs, including the development of memoranda of understanding between agencies, designed to improve the coordination of equal employment opportunity compliance and enforcement.

1-302. The Equal Employment Opportunity Commission shall assist the Civil Service Commission, or its successor, in establishing uniform job-related qualifications and requirements for job classifications and descriptions for Federal employees involved in enforcing all Federal equal employment opportunity provisions.

1-303. The Equal Employment Opportunity Commission shall issue such rules, regulations, policies, procedures or orders as it deems necessary to carry out its responsibilities under this order. It shall advise and offer to consult with the affected Federal departments and agencies during the development of any proposed rules, regulations, policies, procedures or orders and shall formally submit such proposed issuances to affected departments and agencies at least 15 working days prior to public announcement. The Equal Employment Opportunity Commission shall use its best efforts to reach agreement with the agencies on matters in dispute. Departments and agencies shall comply with all final rules, regulations, policies, procedures or orders of the Equal Employment Opportunity Commission.

1-304. All Federal departments and agencies shall advise and offer to consult with the Equal Employment Opportunity Commission during the development of any proposed rules, regulations, policies, procedures or orders concerning equal employment opportunity. Departments and agencies shall formally submit such proposed issuances to the Equal Employment Opportunity Commission and other interested Federal departments and agencies at least 15 working days prior to public announcement. The Equal Employment Opportunity Commission shall review such proposed rules, regulations, policies, procedures or orders to ensure consistency among the operations of the various Federal departments and agencies. Issuances related to internal management and administration are exempt from this clearance process. Case handling procedures unique to a single program also are exempt, although the Equal Employment Opportunity Commission may review such procedures in order to assure maximum consistency within the Federal equal employment opportunity program.

1-305. Before promulgating significant rules, regulations, policies, procedures or orders involving equal employment opportunity, the Commission and affected departments and agencies shall afford the public an opportunity to comment.

1-306. The Equal Employment Opportunity Commission may make recommendations concerning staff size and resource needs of the Federal departments and agencies having equal employment opportunity responsibilities to the Office of Management and Budget.

1-307. (a) It is the intent of this order that disputes between or among agencies concerning matters covered by this order shall be resolved through good faith efforts of the affected agencies to reach mutual agreement. Use of the dispute resolution mechanism contained in Subsections (b) and (c) of this Section should be resorted to only in extraordinary circumstances.

(b) Whenever a dispute which cannot be resolved through good faith efforts arises between the Equal Employment Opportunity Commission and another Federal department or agency concerning the issuance of an equal employment opportunity rule, regulation, policy, procedure, order or any matter covered by this Order, the Chairman of the Equal Employment Opportunity Commission or the head of the affected department or agency may refer the matter to the Executive Office of the President. Such reference must be in writing and may not be made later than 15 working days following receipt of the initiating agency's notice of intent publicly to announce an equal employment opportunity rule, regulation, policy, procedure or order. If no reference is made within the 15 day period, the decision of the agency which initiated the proposed issuance will become effective.

(c) Following reference of a disputed matter to the Executive Office of the President, the Assistant to the President for Domestic Affairs and Policy (or such other official as the President may designate) shall designate an official within the Executive Office of the President to meet with the affected agencies to resolve the dispute within a reasonable time.

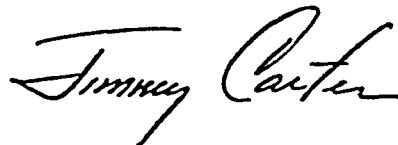
1-4. *Annual Report.*

1-401. The Equal Employment Opportunity Commission shall include in the annual report transmitted to the President and the Congress pursuant to Section 715 of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-14), a statement of the progress that has been made in achieving the purpose of this order. The Equal Employment Opportunity Commission shall provide Federal departments and agencies an opportunity to comment on the report prior to formal submission.

1-5. *General Provisions.*

1-501. Nothing in this order shall relieve or lessen the responsibilities or obligations imposed upon any person or entity by Federal equal employment law, Executive order, regulation or policy.

1-502. Nothing in this order shall limit the Attorney General's role as legal adviser to the Executive Branch.



THE WHITE HOUSE,  
June 30, 1978.

[FR Doc. 78-18686 Filed 6-30-78; 4:23 pm]





[3195-01]

Executive Order 12068

June 30, 1978

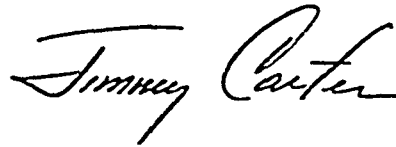
**Providing for Transfer to the Attorney General of Certain Functions Under Section 707  
of Title VII of the Civil Rights Act of 1964, as Amended**

By virtue of the authority vested in me as President of the United States by the Constitution and laws of the United States, including Section 9 of Reorganization Plan Number 1 of 1978 (43 FR 19807), in order to clarify the Attorney General's authority to initiate public sector litigation under Section 707 of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-6), it is ordered as follows:

**1-1. *Section 707 Functions of the Attorney General.***

1-101. Section 5 of Reorganization Plan Number 1 of 1978 (43 FR 19807) shall become effective on July 1, 1978.

1-102. The functions transferred to the Attorney General by Section 5 of Reorganization Plan Number 1 of 1978 shall, consistent with Section 707 of Title VII of the Civil Rights Act of 1964, as amended, be performed in accordance with Department of Justice procedures heretofore followed under Section 707.



THE WHITE HOUSE,  
June 30, 1978.

[FR Doc. 78-18687 Filed 6-30-78; 4:24 pm]



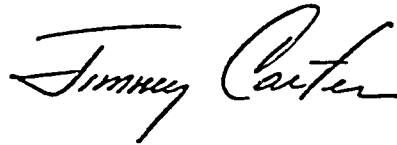
[3195-01]

Executive Order 12069

June 30, 1978

**Relating to Certain Positions in Level IV of the Executive Schedule**

By the authority vested in me as President of the United States of America by Section 5317 of Title 5 of the United States Code, Section 1 of Executive Order No. 11861, as amended, placing certain positions in level IV of the Executive Schedule, is further amended by deleting "Deputy Under Secretary, Department of Transportation" in subsection (9) and inserting in lieu thereof "Administrator, Research and Special Programs Administration, Department of Transportation".



THE WHITE HOUSE,  
*June 30, 1978.*

[FR Doc. 78-18638 Filed 6-30-78; 4:25 am]



[3195-01]

PROCLAMATION 4576

# Free Enterprise Day, 1978

*By the President of the United States of America*

## A Proclamation

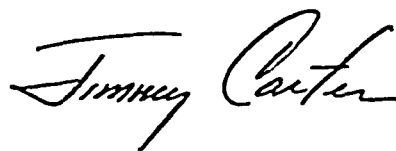
The development of the American economy has historically been the result of the interaction between the abundant natural resources of our land and the enterprising spirit of our people. Our system of economic enterprise reflects many of the same values that are embodied in our political system of democracy and civil liberty.

Excessive government regulation—regulation that does not serve the public interest—must concern us all. Unfortunately, free enterprise is sometimes easier to praise than to practice. But all who believe in free enterprise can take heart from the fact that when it is reintroduced into areas of our economy where it has long been dormant, the results can be salutary. A good example is the airline industry, where recent administrative steps toward greater competition have quickly led to both lower fares and higher profits, confirming the advisability of permanent deregulation by law.

By joint resolution (S.J. Res. 128), the Congress has authorized and requested the President to issue a proclamation designating July 1, 1978, as "Free Enterprise Day."

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim July 1, 1978, as Free Enterprise Day. I call upon the people of the United States and interested groups and organizations to mark this observance with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of June, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.



[FR Doc. 78-18709 Filed 7-3-78; 11:04 am]



[3195-01]

Executive Order 12070

June 30, 1978

## Adjustment of Cost of Living Allowances

By the authority vested in me as President of the United States of America by Section 5941 of Title 5 of the United States Code, and in order to authorize the temporary restoration of the cost of living allowance to certain employees, it is hereby ordered as follows:

1-1. *Suspension of Applicable Requirements.*


1-101. The requirement of Section 205(b)(2) of Executive Order No. 10000, as amended, that consideration be given to quarters or subsistence, commissary or other purchasing privileges, in determining cost of living allowance rates, is suspended except to the extent that such privileges are furnished as a result of Federal civilian employment.

1-102. Quarters or subsistence, commissary or other purchasing privileges, shall not be taken into consideration in determining cost of living allowance rates of employees who are furnished such facilities as a result of Federal civilian employment but who do not use them.

1-2. *Administrative Matters.*

1-201. This Order shall take effect July 30, 1978 and shall operate prospectively.

1-202. The United States Civil Service Commission shall conduct a study of problems associated with the implementation of Section 5941 of Title 5 of the United States Code. The Commission's findings and recommendations for long-term solutions to problems encountered with respect to the cost of living allowance and differential compensation authorized by that statute shall be submitted to the President.



THE WHITE HOUSE,  
June 30, 1978.

[FR Doc. 78-18710 Filed 7-3-78; 11:05 am]





# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-01]

## Title 7—Agriculture

### SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

## PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

### Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

**SUMMARY:** The delegations of authority of the Department of Agriculture are amended to transfer the responsibility for preparation of the agricultural decisions from the Assistant Secretary for Administration to the Director, Office of Governmental and Public Affairs.

**EFFECTIVE DATE:** July 5, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Edwardene Rees, Management Staff, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6111.

*Subpart C—Delegations of authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Governmental and Public Affairs.*

1. Section 2.25 is amended by revoking paragraph (a)(3)(xi) as follows:

§ 2.25 Delegations of authority to the Assistant Secretary for Administration.

\*\*\*  
(a) *Related to administrative law judges.* \*\*\*  
(3) \*\*\*  
(xi) [Revoked].

\*\*\*  
2. Section 2.29 is amended by adding a new paragraph (c)(10) as follows:

§ 2.29 Delegations of authority to the Director, Office of Governmental and Public Affairs.

\*\*\*  
(c) *Related to information activities.* \*\*\*

(10) Maintain overall responsibility and control over the preparation of the "Agricultural Decisions."

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.)

Dated: June 28, 1978.

BOB BERGLAND,  
Secretary.

[FR Doc. 78-18517 Filed 7-3-78; 8:45 am]

[3410-34]

## CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

### PART 301—DOMESTIC QUARANTINE NOTICES

#### Subpart—Witchweed

#### MISCELLANEOUS AMENDMENTS TO REGULATED AREAS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

**SUMMARY:** This document amends the supplemental regulation which describes those areas subject to the Federal witchweed quarantine. It removes, adds, or extends all or parts of certain counties in North Carolina and South Carolina to the suppressive areas. These changes are required in light of witchweed infestation information obtained from the most recent witchweed surveys conducted in these counties.

**EFFECTIVE DATE:** Wednesday, July 5, 1978.

**FOR FURTHER INFORMATION CONTACT:**

H. I. Rainwater, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, U.S. Department of Agriculture, Hyattsville, Md. 20782, 301-436-8247.

**SUPPLEMENTARY INFORMATION:** Witchweed is a parasitic plant which causes the degeneration of corn, sorghum, and other grassy crops. It has been found in the United States only in parts of North Carolina and South Carolina. Areas within these States

have been designated as suppressive areas, where a witchweed eradication program is currently being undertaken.

Surveys conducted by the U.S. Department of Agriculture and State agencies of North Carolina and South Carolina establish that witchweed has spread, or is likely to spread, to certain areas beyond the outer perimeter of the existing suppressive areas. Therefore, in order to prevent the spread of witchweed and to facilitate its ultimate eradication, the existing suppressive areas in the following counties must be extended: Brunswick, Columbus, Craven, Duplin, Greene, Harnett, Johnston, Jones, Lenoir, Pender, Richmond, Scotland, and Wayne in North Carolina, and Horry in South Carolina; and suppressive areas must be established in the formerly unregulated counties of Lee and Pitt in North Carolina. The surveys also establish that witchweed has been eradicated in parts of the following counties, which are deleted from the list of suppressive areas: Duplin, Harnett, Johnston, Jones, Lenoir, Moore, Onslow, Richmond, Scotland, and Wayne in North Carolina, and Darlington and Marlboro in South Carolina.

Other changes are also made to reflect changes in property ownership. Certain property descriptions are also revised in order to more accurately describe the regulated areas.

Accordingly, § 301.80-2a of the witchweed quarantine regulations (7 CFR 301.80-2a) is hereby amended as set forth below:

1. That part of § 301.80-2a, describing the existing suppressive areas in the State of North Carolina, is amended to read as follows:

§ 301.80-2a Regulated areas; suppressive and generally infested areas.

#### NORTH CAROLINA

#### (2) *Suppressive area.*

*Bladen County.* The entire county.  
*Brunswick County.* The Babson, N. L. farm located on the west side of State Secondary Road 1321 and 0.4 mile south of its junction with State Highway 130.

The Bryant, Ottice, farm No. 1 located at the end of a farm road 1 mile west of State Secondary Road 1342, 2.5 miles northwest

of said State secondary road and its junction with State Highway 211.

The Bryant, Ottice, farm No. 2, located on both sides of State Secondary Road 1342, 2.3 miles northwest of said road and its junction with State Highway 211.

The Meares, Hobson, farm located on both sides of State Secondary Road 1165 and 2 miles south of the junction of said road with U.S. Highway 17.

The Register, W. C., farm located on the south side of State Secondary Road 1147 and 0.3 mile east of the junction of said road and State Secondary Road 1143.

The Register, W. T., farm located on the west side of State Secondary Road 1151 and 0.4 mile south of its junction of State Secondary Road 1147.

The Smith, B. Coda, farm located on the west side of a dirt road and 0.6 mile north of its junction with State Secondary Road 1322, said junction being 0.1 mile west of the junction of State Secondary Road 1322 and State Secondary Road 1321.

**Columbus County.** That part of the county lying north and west of a line beginning at a point where State Highway 211 intersects the Bladen-Columbus County line, thence south along said Highway 211 to its intersection with State Secondary road 1740, thence southwest and south along said State Secondary Road 1740 to its junction with U.S. Highways 74 and 76, thence west along said highways to its intersection with State Secondary Road 1001, thence south along said Road 1001 to its intersection with the Seaboard Coastline Railroad, thence west along said railroad to its intersection with White Marsh Swamp, thence south along said swamp to its junction with Cypress Creek, thence southwest along said creek to its intersection with State Highway 130, thence northwest along said highway to its junction with State Secondary Road 1166, thence southwest along said road to its junction with State Secondary Road 1157, thence southwest along said road to its junction with U.S. Highway 701, thence south and west along said highway to its intersection with State Secondary Road 1314, thence west along said road to its junction with State Secondary Road 1346, thence southwest along said road to its junction with the North Carolina-South Carolina State line.

The Jacobs, Thomas, farm located 0.2 mile north of State Secondary Road 1847 and 1 mile southwest of the junction of said Road 1847 with State Secondary Road 1740.

The Long, J. M., farm located on the southwest side of State Secondary Road 1113 and 0.4 mile northwest of its junction with State Secondary Road 1108.

The McLamb, H. M., farm located on the southwest side of State Secondary Road 1113 and 0.5 mile northwest of its junction with State Secondary Road 1108.

The Owen, J. A., farm located on the southwest side of State Highway 87 and 0.3 mile southeast of the intersection of said Highway 87 with the Bladen-Columbus County line.

The Prince, J. Carl, farm located on both sides of State Secondary Road 1119 and 2.2 miles west of its junction with State Secondary Road 1103.

The Shaw, Archie, farm located 0.2 mile southeast of State Secondary Road 1864 and 0.5 mile southeast of the junction of said Road 1864 with State Secondary Road 1808.

The Shaw, Charles H., farm located 0.1 mile north of State Secondary Road 1847

and 0.9 mile northeast of the junction of said Road 1847 with State Secondary Road 1740.

The Shipman, C. S., farm located on the east side of State Secondary Road 1909 and 0.6 mile southeast of the junction of said Road 1909 with State Secondary Road 1908.

The Spivey, D. M., farm located in the northeast corner of the intersection of U.S. Highway 701 and Gum Swamp.

The Suggs, Lacy, farm located at the end of a dirt road 0.5 mile southeast of the junction of said road with State Secondary Road 1108, said junction being 0.7 mile northeast of the junction of State Secondary Road 1108 and State Secondary Road 1118.

**Craven County.** The Goodman, W. D., farm located on both sides of State Secondary Road 1263 and 2.6 miles east of its southern junction with State Secondary Road 1262.

The Hawkins, Annie A., farm located on both sides of State Secondary Road 1263 and 1 mile east of the junction of said Road 1263 with State Secondary Road 1262.

The Hodges, Mary K., farm located on both sides of State Secondary Road 1263 and 2.2 miles east of its southern junction with State Secondary Road 1262.

The West, Gladys W., farm located on both sides of State Secondary Road 1263 and 1.4 miles east of its southern junction with State Secondary Road 1262.

The White, Raymond E., farm located on both sides of State Secondary Road 1263 and 0.2 mile east of its northern junction with State Secondary Road 1262.

**Cumberland County.** All of Cumberland County excluding the Fort Bragg Military Reservation, the area within the corporate limits of the city of Fayetteville, and the unincorporated communities of East Fayetteville and Bonnie Doone.

**Duplin County.** That area bounded by a line beginning at a point where State Secondary Road 1337 intersects the Duplin-Sampson County line, thence northeast along said road to its junction with State Highway 50, thence northwest along said highway to its junction with State Secondary Road 1355, thence northeast along said road to its junction with State Secondary Road 1332, thence northeast along said road to its junction with State Secondary Road 1304, thence southeast along said road to its intersection with Bear Swamp, thence east along said swamp to its junction with Goshen Swamp, thence southeast along said swamp to its intersection with State Secondary Road 1305, thence north along said road to its junction with State Secondary Road 1306, thence northwest along said road to its junction with State Highway 403, thence northeast along said highway to its junction with State Secondary Road 1368, thence south along said road to its junction with State Secondary Road 1367, thence southeast along said road to its junction with State Secondary Road 1365, thence northeast along said road to its junction with State Secondary Road 1004, thence southeast along said road to its junction with State Secondary Road 1503, thence northeast along said road to its intersection with State Secondary Road 1500, thence southeast along said road to its intersection with State Secondary Road 1505, thence south along said road to its junction with State Secondary Road 1004, thence southeast along said road to its intersection with Nahunga Creek, thence southwest along said creek to its intersection with State Secondary Road 1301, thence northwest along said

road to its junction with State Secondary Road 1346, thence southwest along said road to its junction with State Secondary Road 1385, thence west along said road to its junction with State Highway 50, thence southeast along said highway to its junction with State Secondary Road 1900, thence southeast along said road to its junction with State Secondary Road 1003, thence east along said road to its junction with State Highway 11, thence south along said highway to its junction with State Secondary Road 1922, thence southwest along said road to its junction with State Secondary Road 1909, thence south along said road to its junction with State Secondary Road 1912, thence west along said road to its intersection with the Magnolia city limits, thence south, west, and north along said city limits to its intersection with State Secondary Road 1003, thence southwest along said road to its junction with State Secondary Road 1101, thence southeast along said road to its intersection with State Secondary Road 1102, thence southwest along said road to its junction with State Secondary Road 1126, thence west along said road to its intersection with State Secondary Road 1100, thence southeast along said road to its intersection with State Secondary Road 1102, thence south along said road to its junction with State Secondary Road 1129, thence southwest along said road to its intersection with State Secondary Road 1128, thence northwest along said road to its intersection with Duplin-Sampson County, thence north along said county line to the point of beginning.

The Beard, Mary Lou, farm located on both sides of State Secondary Road 1901 and 0.6 mile west of the intersection of said road and the Northeast Cape Fear River.

The Bostic, Jake, farm located on both sides of State Secondary Road 1961 and 0.5 mile west of the intersection of said road and the Northeast Cape Fear River.

The Bradshaw, Gene A., farm located on the south side of State Secondary Road 1321 and 0.8 mile west of the junction of said road with State Secondary Road 1302.

The Bradshaw, Milton J., farm located at the northwest end of State Secondary Road 1980.

The Branch, Hall, farm located on the southeast side of State Highway 11 and 0.6 mile southwest of the junction of said highway and State Secondary Road 1004.

The Britt, Cornia, farm located on both sides of State Secondary Road 1545 and 0.5 mile east of the junction of said road and State Secondary Road 1564.

The Brock, Jack, farm located on both sides of State Secondary Road 1700 and 0.8 mile west of the intersection of said road and the Northeast Cape Fear River.

The Brown, Norman, farm located on the south side of State Secondary Road 1961 and 0.6 mile west of the intersection of said road and State Secondary Road 1962.

The Dail, Albert D., farm located on both sides of State Secondary Road 1524 and 0.1 mile north of the junction of said road and State Secondary Road 1525.

The Davis, Jimmie, farm located on the east side of State Highway 111 and the south side of State Secondary Road 1546.

The Davis, Wenzell, farm located on the south side of State Secondary Road 1560 and 0.3 mile south of the junction of said road and State Secondary Road 1537.

The English, James Earl, farm located on the north side of State Secondary Road 1980 and 0.3 mile southwest of the junction of said road and State Secondary Road 1979.

The Garner, S. C., farm located on the south side of State Secondary Road 1306 and 0.5 mile west of the junction of said road and State Secondary Road 1511.

The Goodson, Emma, farm located on the south side of State Secondary Road 1501 and 0.3 mile west of the junction of said road and State Secondary Road 1505.

The Grady, E. C., farm located on both sides of State Secondary Road 1700 and 0.7 mile west of the intersection of said road and the Northeast Cape Fear River.

The Grady, Robert, farm located on the east side of State Secondary Road 1560 and the south side of State Secondary Road 1537.

The Grady, S. Leland, farm located on both sides of State Secondary Road 1700 and 0.6 mile west of the intersection of said road and the Northeast Cape Fear River.

The Green, Willie, farm located on both sides of State Secondary Road 1971, and 0.6 mile southwest of the junction of said road and State Highway 50.

The Hall, Raymond, farm located on both sides of State Secondary Road 1961 and 1.2 miles west of the intersection of said road and State Secondary Road 1962.

The Harper, Milo, farm located on the northwest side of State Secondary Road 1539 and 0.6 mile northeast of the junction of said road and State Secondary Road 1540.

The Herring Estate, Jeff, farm located on the north side of State Secondary Road 1545 and 0.6 mile east of the junction of said road and State secondary Road 1564.

The Horne, Harry, farm located on the south side of State Secondary Road 1961 and 0.8 mile west of the intersection of said road and State Secondary Road 1962.

The Howard, Henry, farm located on the north side of State Secondary Road 1700 and 0.8 mile west of the intersection of said road and the Northeast Cape Fear River.

The Hussey Estate, M. W., farm located on the east side of State Secondary Road 1560 and 0.2 mile south of the junction of said road and State Secondary Road 1537.

The Johnson, Eldora, farm located on both sides of State Secondary Road 1123 and 1.2 miles west of the junction of said road and State Secondary Road 1103.

The Jones, Billy, farm located on both sides of State Secondary Road 1700 and 0.7 mile west of the intersection of said road and the Northeast Cape Fear River.

The Jones, H. A., farm located on the south side of State Secondary Road 1700 and 0.7 mile west of the intersection of said road and the Northeast Cape Fear River.

The Kalmar, J. N., farm located on the south side of State Highway 403 and 0.5 mile west of its junction with State Secondary Road 1304.

The Kennedy, Owen, farm located on the east side of State Secondary Road 1726 and the southeast side of State Secondary Road 1702.

The Kennedy, Sidney J., farm located on the east side of State Secondary Road 1718 and 0.2 mile south of the junction of said road and State Highway 41.

The King, W. R., farm located on the east side of State Secondary Road 1302 and 0.1 mile south of the junction of said road and State Secondary Road 1308.

The Kornegay, Ethyl, farm located 0.2 mile east of State Secondary Road 1501 and 0.6 mile south of the intersection of said road and State Secondary Road 1519.

The Kornegay Estate, Issac, located on the southwest side of State Secondary Road 1306 and 0.7 mile northwest of the junction of said road and State Secondary Road 1305.

The Lewis, Merle S., farm located on the east side of State Secondary Road 1004 and both sides of State Secondary Road 1508.

The Marshburn, Freeman J., farm located on both sides of State Secondary Road 1128 and 0.7 mile southeast of the intersection of said road and State Secondary Road 1129.

The Maxwell, Myra, farm located on the southeast side of State Secondary Road 1306 and the west side of State Secondary Road 1562.

The McCullen, Larry, farm located on the northeast side of State Highway 24 and 0.2 mile northwest of the junction of said highway and State Secondary Road 1904.

The McGowan, Woodell, farm located on the south side of State Secondary Road 1961 and 1.1 miles west of the intersection of said road and State Secondary Road 1962.

The Mercer, Cathleen, farm located on the south side of State Secondary Road 1703 and 1.1 miles east of the intersection of said road and State Secondary Road 1704.

The Mercer, Herbert C., farm located on the south side of State Secondary Road 1703 and 0.7 mile west of the junction of said road and State Secondary Road 1732.

The Norris, Maggie T., farm located on the south side of State Secondary Road 1700 and 1.4 miles east of the intersection of said road and State Secondary Road 1701.

The Outlaw, Bennie F., farm located on both sides of State Secondary Road 1524 and the north side of State Secondary Road 1525.

The Outlaw, Emma, farm located on the south side of State Secondary Road 1509 and 0.5 mile southwest of the junction of said road and State Secondary Road 1510.

The Parrott, Jr., Mrs. Frank, farm located on the south side of State Secondary Road 1703 and 0.3 mile east of the intersection of said road and State Secondary Road 1704.

The Pate, Robert Lee, farm located on both sides of State Secondary Road 1357 and 0.9 mile southwest of the junction of said road and State Secondary Road 1306.

The Powell, William F., farm located on both sides of State Secondary Road 1123 and 0.2 mile southeast of the intersection of said road and State Secondary Road 1129.

The Precythe, Harold, farm located on the east side of U.S. Highway 117 and 0.1 mile south of the junction of said highway and State Secondary Road 1354.

The Rivenbark, George W., farm located on the northwest side of State Secondary Road 1131 and 0.4 mile southwest of the junction of said road and State Secondary Road 1128.

The Rouse, Beatrice S., farm located on both sides of State Secondary Road 1920 and at the west end of said road.

The Rouse, Jim, farm located on both sides of State Secondary Road 1537 and 0.3 mile south of the junction of said road and State Secondary Road 1306.

The Rouse, Rouke, farm located on the north side of State Secondary Road 1537 and the west side of State Secondary Road 1538.

The Shepard, J. T., farm located on both sides of State Secondary Road 1732 and 0.2 mile north of the junction of said road and State Secondary Road 1703.

The Smith, R. J., farm located on the north side of State Highway 11 and 1.2 miles east of the junction of said highway and State Highway 111.

The Smith, Sallie P., farm located on the northeast side of State Highway 111 and 0.8 mile southeast of the Duplin-Wayne County line.

The Stokes, Fred, farm located on the south side of State Secondary Road 1930 and 2.4 miles west of the junction of said road and State Secondary Road 1979.

The Stokes, William C., farm located at the southwest end of State Secondary Road 1980.

The Summerlin, D. C., farm located on the north side of State Secondary Road 1513 and 0.4 mile east of the junction of said road and State Secondary Road 1565.

The Summerlin, Oliver, farm located on the south side of State Highway 403 and 0.1 mile east of the corporate limits of the town of Faison.

The Sumner, India, farm located on the southwest side of State Highway 111 and 1.2 miles south of the intersection of said highway and State Secondary Road 1700.

The Thomas, J. R., farm located on the north side of State Secondary Road 1700 and 1.4 miles east of the intersection of said road and State Secondary Road 1701.

The Turner, Lumas, farm located on the south side of State Secondary Road 1703 and 0.6 mile west of the junction of said road and State Secondary Road 1732.

The Whaley, Bennie, farm located on the southeast side of State Secondary Road 1961 and 0.3 mile northeast of the junction of said road and State Secondary Road 1890.

The Whitman, Herman E., farm located on the south side of State Secondary Road 1300 and 0.1 mile west of the junction of said road and State Road 1381.

The Whitman, Herman E., farm located on the north side of State Secondary Road 1300 and 0.8 mile east of the intersection of said road and State Secondary Road 1301.

The Williams, McArthur, farm located on the south side of State Secondary Road 1961 and 1 mile west of the intersection of said road and State Secondary Road 1962.

The Wilson, Mammie, farm located on the east side of State Highway 111 and 1.0 mile south of the intersection of said highway and State Secondary Road 1700.

*Green County.* That area bounded by a line beginning at a point where State Highway 102 intersects State Highway 123 and extending south along State Highway 123 to its intersection with Contentnea Creek, thence northwest along said creek to its junction with Panther Swamp. Thence northerly along said Panther Swamp to its intersection with U.S. Highway 13-253, thence easterly along said highway to the point of beginning.

The Carmon, James E., farm located on the east side of State Secondary Road 1004 and 0.4 mile south of its junction with North Carolina Highway 102.

The Dixon, John, Farm located on the east side of State Secondary Road 1004 at the junction on State Secondary Road 1405.

The Dixon, Sudie, farm located on the west side of State Secondary Road 1004 and 0.2 mile south of its junction of State Secondary Road 1405.

The Murphrey, Edward, farm located on the east side of State Secondary Road 1004 and 0.3 mile south of its junction with State Highway 102.

The Whitaker, J. H., farm located on the east side of State Secondary Road 1004 and 0.6 mile south of its junction with State Highway 102.

*Harnett County.* That area bounded by a line beginning at a point on the Harnett-Lee County line due west of the head of Barbecue Swamp and extending east to the head of said swamp, thence south and east along Barbecue Swamp to its intersection on State

Secondary Road 1201, thence south and southeast along said road to its junction with State Highway 27, thence southeast along said highway to its junction with State Highway 24, thence southeast along said highway to its junction with State Secondary Road 1111, thence southwest along said road to its intersection with Harnett-Moore County line, thence northwest along the Harnett-Moore County line to its junction with the Moore-Harnett-Lee County line, thence northeast along the Harnett-Lee County line to the point of beginning.

That area bounded by a line beginning at a point where the Harnett-Cumberland County line and McLeod Creek intersect and extending northwest along said creek to its intersection with State Secondary Road 1117, thence northeast, northwest and north along said road to its intersection with Anderson Creek, thence southeast along said creek to its intersection with the State Highway 210, thence northeast along said highway to its junction with State Secondary Road 2030, thence southeast along said road to its junction with State Secondary Road 2031, thence southwest along said road to its intersection with the Harnett-Cumberland County line, thence southwest and west along said county line to the point of beginning.

The Cook, A. L., farm located on the east side of State Secondary Road 1201 and 1.5 miles southeast of the junction of said road with State Secondary Road 1203.

The Gilchrist, Leonard W., farm located on the southeast side of State Secondary Road 1111, 0.4 mile north of the junction of said road with State Secondary Road 1110.

The Johnson, Sr., Jonah C., farm located at the junction of State Secondary Roads 1553 and 1555. The farm lies in the northeast portion of this junction.

The Keath, Vick, farm located on the east side of State Secondary Road 1293 and 0.7 mile southwest of the junction of said road with State Secondary Road 1114.

The McAden, J. L., farm located on southwest side of State Highway 27 and 0.6 mile southwest of the intersection of said highway with State Highway 87.

The Pace, W. M., farm located on west side of State Secondary Road 1116 and 0.5 mile southeast of the junction of said road with State Highway 27.

The Proctor, T. G., farm located on the northeast side of State Highway 27 at that point where said highway forms on overpass over State Highway 87.

The Thomas, Floyd, E., farm located on the northeast side of State Secondary Road 1146 and 0.2 mile north of the junction of said road with State Secondary Road 1117.

The Wornack, E. H., farm located on east side of State Highway 27, and 1.0 mile north of the junction of said highway with State Highway 24.

**Hoke County.** The entire county excluding Fort Bragg Military Reservation.

**Johnston County.** The Baker, Mrs. Lula, farm located on the east side of State Highway 242 and 0.2 mile south of the intersection of said highway and State Secondary Road 1116.

The Barefoot, Wade H., farm located on a farm road and 0.4 mile south of its junction with State Secondary Road 1144 and 0.4 mile west of the intersection of said road with State Secondary Road 1145.

The Blackman, Dewey, farm located on the south side of State Secondary Road 1146, and 0.4 mile east of the junction of said road with State Secondary Road 1145.

The Braswell, J. G., farm located on the east side of State Secondary Road 2519 and 0.4 mile north of the junction of State Secondary Roads 2519 and 2520.

The Davis, I. H., farm located on the southwest side of State Secondary Road 1197 and 0.1 mile southeast of the junction of said road with State Secondary Road 1198.

The Edwards, Archie, farm located on the south side of State Secondary Road 2542 and 0.6 mile south of the junction of said road with State Secondary Road 1007.

The Everett, Betty, farm located on the west side of State Secondary Road 2541 and 0.5 mile south of the junction of said road with State Secondary Road 1007.

The Everett, Betty, farm located on a farm road and 0.6 mile west of its junction with State Secondary Road 2541, said junction being 1.9 miles south of the junction of State Secondary Roads 2541 and 1007.

The Everett, Jasper, farm located on a farm road and 0.5 mile west of its junction with State Secondary Road 2541, said junction being 1.9 miles south of the junction of State Secondary Roads 2541 and 1007.

The Hudson, Price, Estate farm located on a farm road and 0.4 mile north of its junction with State Secondary Road 1008, said junction being 0.8 mile northeast of the intersection of State Secondary Road 1008 with U.S. Highway 701.

The Johnson, Annie, farm located on the west side of State Secondary Road 1138 and 0.5 mile south of its junction with State Secondary Road 1144.

The Johnson, Corby, farm located on the southwest side of State Highway 50 and 0.4 mile southeast of the intersection of said highway and State Secondary Road 1124.

The Johnson, Floyd, farm located on the west side of State Secondary Road 1124 and 0.2 mile south of the intersection of said road and State Secondary Road 1122.

The Johnson, Wade, farm located on both sides of State Secondary Road 1144 and 0.2 mile west of the junction of said road with State Secondary Road 1138.

The Jones, U. E., farm located on the south side of State Secondary Road 1128 and 0.7 mile east of the junction of said road with State Secondary Road 1124.

The Martin, Emmitt, farm located on the east side of State Secondary Road 2519 and 0.3 mile north of the junction of State Secondary Roads 2519 and 2520.

The Martin, John L., farm located on the west side of State Secondary Road 1201 and 0.3 mile north of the junction of said road with State Secondary Road 1200.

The McArthur, Margaret, farm located on a farm road and 1.4 miles north of its junction with State Secondary Road 1199 and 0.9 mile west of the junction of said road with State Secondary Road 1008.

The Naylor, Mrs. Luby, farm located on the southwest side of State Highway 50 and 0.3 mile northwest of the intersection of said highway and State Secondary Road 1124.

The Smith, Clifton, farm located on the east side of State Highway 98 at the junction of said highway and State Secondary Road 1120.

The Summerlin, Everett L., farm located on the north side of State Secondary Road 1008, and 0.6 mile west of the junction of said road with State Secondary Road 1199.

The Tart, Allen, farm located on the southwest corner of the junction of State Highway 96 and State Secondary Road 1120.

The Williams, D. C., farm located on the south side of State Secondary Road 1128 and 0.3 mile east of the junction of said road with State Secondary Road 1124.

**Jones County.** The Franck, Mrs. Wilber, farm located on the south side of State Secondary Road 1116 and 1.9 miles west of junction of said road with State Secondary Road 1115.

The Simpson, Eugene T., farm located on the south side of State Secondary Road 1116 and 2.5 miles west of the junction of said road and State Secondary Road 1115.

**Lee County.** The McGilvary, Aquilla, farm located north of State Secondary Road 1188 and 0.6 mile east of the junction of said road with State Secondary Road 1001.

**Lenoir County.** The Barber, Clarence, farm located on both sides of State Secondary Road 1301 with 0.2 mile northeast of its junction with State Secondary Road 1302.

The Braxton, Clyde, Estate located on both sides of State Secondary Road 1802 and 0.9 mile northeast of the junction of State Secondary Road 1802 and State Highway 11.

The Brown, Nannie H., farm located in the southwest junction of State Secondary Roads 1152 and 1309.

The Carr, Lillian, farm located on the southwest side of State Secondary Road 1524 and 0.1 mile south of its junction with State Secondary Road 1526.

The Carter, Ephrom, farm located on the south side of State Secondary Road 1116 and 1.5 miles east of its junction with State Highway 11.

The Elmore, Lucy H., No. 1, farm located on the south side of State Secondary Road 1324 and 0.2 mile west of its junction with State Secondary Road 1333.

The Foss, Reginald D., farm located on the north side of State Secondary Road 1316 and 0.6 mile northwest of its junction with State Secondary Road 1318.

The Hamilton, C. W., farm located on the southeast side of State Secondary Road 1802 and 1.2 miles northeast of its junction with State Highway 11.

The Herring, Ben D., No. 1, farm located on both sides of State Secondary Road 1330 and 0.2 mile west of the junction of State Secondary Roads 1330 and 1331.

The Herring, Ben D., No. 2, farm located on the west side of State Secondary Road 1310 and 0.3 mile south of its junction with State Secondary Road 1311.

The Herring, Jack A., farm located on the east side of State Secondary Road 1310 and 0.4 mile south of its junction with State Secondary Road 1311.

The Herring, Lewis R., No. 1, farm located on the south side of State Secondary Road 1324 and 0.3 mile west of its junction with State Secondary Road 1333.

The Hill, Nannie T., farm located on the southeast side of State Highway 55 at its junction with State Secondary Road 1161.

The Howard, Clarence, farm located on the south side of State Secondary Road 1105 and 0.1 mile east of its intersection with State Secondary Road 1118.

The Jarman, F. R., farm located on the southeast side of State Secondary Road 1311 and 0.7 mile southwest of its junction with State Secondary Road 1318.

The Jones, Edward S., farm located on the west side of U.S. Highway 258 and 0.3 mile north of its junction with State Secondary Road 1116.

The Joyner Farms, Inc., farm located on both sides of State Secondary Road 1324 and 0.5 mile east of its junction with State Secondary Road 1335.

The Moody, Alton, farm located on the south side of State Highway 55 and 0.6 mile northeast of its junction with State Secondary Road 1161.

The Moye, Lenton G., farm located on the west side of State Secondary Road 1335 and 0.3 mile north of its junction with State Secondary Road 1324.

The Parrott Farms, Inc., farm located on the northwest side of State Secondary Road 1157 and 0.7 mile northwest of its intersection with State Highway 55.

The Rouse, Forrest, farm located on the northeast side of State Secondary Road 1143 and 2.9 miles northwest of its intersection with State Secondary Road 1154.

The Rouse, Jim W., farm located on the northeast side of State Secondary Road 1143 and 2.8 miles northwest of its intersection with State Secondary Road 1154.

The Rouse, Leon, farm located on both sides of State Secondary Road 1307 and 0.4 mile southwest of its junction with State Secondary Road 1324.

The Singleton, Ruby S., farm located on east side of State Secondary Road 1802 and 0.6 mile south of its junction with State Secondary Road 1801.

The Sutton, C. R., farm located on the east side of State Secondary Road 1152 and 0.2 mile north of its junction with State Secondary Road 1308.

The Sutton, George Hodges, No. 1, farm located in the southwest junction of State Secondary Roads 1324 and 1307.

The Sutton, Iris, farm located on the east side of State Secondary Road 1152 and 0.6 mile south of its junction with State Secondary Road 1324.

The Sutton, John W., farm located in the southeast junction of State Secondary Roads 1330 and 1333.

The Sutton, M. L., farm located on the southeast side of State Secondary Road 1311 and 0.8 mile southwest of its junction with State Secondary Road 1318.

The Sutton, Nathan, farm located on the southeast side of State Secondary Road 1311 and 0.6 mile southwest of its junction with State Secondary Road 1318.

The Sutton, Norman, farm located on the northwest side of State Secondary Road 1308 at the end of farm road located 0.3 mile southwest of junction of State Secondary Roads 1308 and 1324.

The Sutton, Prentice, farm located on the south side of State Secondary Road 1503 and 0.3 mile southeast of its intersection with State Secondary Road 1327.

The Sutton, Robert H., farm located on the south side of State Secondary Road 1324 and 0.2 mile east of its junction with State Secondary Road 1327.

The Sutton, Woodrow W., farm located on the north side of State Secondary Road 1331 and 0.5 mile west of its junction with State Secondary Road 1333.

The Taylor, Heber, farm located on the north side of State Secondary Road 1161 and 0.3 mile east of its junction with State Highway 55.

The Walters, H. F., farm located on both sides of State Secondary Road 1335 and 0.4 mile north of its junction with State Secondary Road 1324.

The Waters, Thomas, Estate located on both sides of State Secondary Road 1318 and 0.3 mile north of its junction with State Secondary Road 1317.

The Wood, C. W., farm located on the northwest side of State Secondary Road 1311 and 0.7 mile southwest of its junction with State Secondary Road 1318.

*Moore County.* The Bryant, R. E., farm located on both sides of State Secondary Road 1815 and 0.5 mile southwest of the junction of said road with U.S. Highway 15-501.

The Hardy, N. W., farm located on both sides of State Secondary Road 2007 and 0.2 mile southeast of the junction of said road with State Secondary Road 2005.

The Laton, William A., farm located on the east side of State Secondary Road 1004 and 0.3 mile north of the intersection of said road with State Secondary Road 1113.

The Marks, E. M., farm located on the south side of State Secondary Road 2019 and 2.5 miles east of the junction of said road and State Secondary Road 2018.

The McLaurin, Hattie J., farm located on the north side of N.C. Highway 211 and 0.5 mile west of the junction of said highway with State Secondary Road 2075.

The McNeill, Lena Bell, farm located on the northwest side of State Secondary Road 2077 and 0.5 mile southwest of the junction of said road with State Highway 211.

The Thomas, Claude and Ted, farm located on the west side of State Secondary Road 1128 and 0.5 mile northwest of the junction of said road with State Secondary Road 1122.

*Onslow County.* The Bryant, Ira, farm located on the north side of State Secondary Road 1425, 0.8 mile west of its junction with State Secondary Road 1434.

The Henderson, Bill, farm located on the east side of State Secondary Road 1523 and on the north side of State Secondary Road 1518 at the junction of said roads.

The McAllister, Henry, farm located on both sides of State Secondary Road 1316 and 1 mile southwest of said road and its junction with State Secondary Road 1303.

*Pender County.* That area bounded by a line beginning at a point where State Secondary Road 1104 intersects the Pender-Bladen County line, and extending northeast along said county line to its junction with Black River, thence east along said river to its junction with Colvins Creek, thence north and northwest along said creek to its intersection with State Secondary Road 1201, thence east along said road to its intersection with the Atlantic Coast Line Railroad, thence southeast along said railroad to its intersection with State Secondary Road 1125, thence northeast along said road to its intersection with Moores Creek, thence northeast and northwest along said creek to its intersection with State Secondary Road 1123, thence northeast along said road to its junction with State Secondary Road 1216, thence east along said road to its intersection with U.S. Highway 421, thence southeast along said highway to its junction with State Secondary Road 1121, thence south along said road to its intersection with State Secondary Road 1125, thence east and south along said road to its junction with State Secondary Road 1121, thence southeast along said road to its intersection with State Secondary Road 1120, thence southwest along said road to its intersection with State Highway 210, thence southwest along said highway to its junction with State Secondary Road 1103, thence southeast along said road to its junction with State Secondary Road 1104, thence southwest and northwest along said road to the point of beginning.

That area bounded by a line beginning at a point where State Secondary Road 1517, junctions with U.S. Highway 117, and extending northwest along said highway to its

intersection with State Secondary Road 1412, thence east along said road to its junction with State Secondary Road 1411, thence southwest along said road to its intersection with Pike Creek, thence southeast along said creek to its junction with the Northeast Cape Fear River, thence south along said river to its intersection with State Highway 210, thence southwest along said highway to its junction with State Secondary Road 1518, thence southeast along said road to its junction with State Secondary Road 1517, thence westerly along said road to the point of beginning.

The Anderson, Julian W., farm located on both sides of State Secondary Road 1108 and 0.9 mile northwest of the junction of said road and State Secondary Road 1107.

The Armstrong, Willie, farm located 0.5 mile west of State Secondary Road 1408 and 0.3 mile south of the junction of said road with State Highway 210.

The Colvin, Alex, farm located on the northwest side of State Secondary Road 1120 and 1.4 miles southwest of the intersection of said road and U.S. Highway 421.

The Eca, Leo, farm located 0.5 mile east of State Secondary Road 1105 and 1 mile southwest of the junction of said road and State Secondary Road 1104.

The Kea, Nora, farm located 0.1 mile west of the end of State Secondary Road 1103.

The Marshall, Milvin, farm located on the north side of State Secondary Road 1103 and 0.6 mile east of the southern junction of said road and State Secondary Road 1104.

The McCallister, Mary E., farm located 0.2 mile east of State Secondary Road 1105 and 1 mile southwest of the junction of said road and State Secondary Road 1104.

The Stringfield Estate, John, located on the southwest side of State Secondary Road 1517 and 1.4 miles east of the junction of said road and U.S. Highway 117.

The Williams, John H., and Heirs, farm located on the east side of State Secondary Road 1520 and 2.7 miles north of the junction of said road and State Highway 210.

*Pitt County.* That area bounded by a line beginning at a point where State Secondary Road 1919 intersects the Pitt-Craven County line, thence southwest along said county line to its intersection with State Highway 118, thence westward along said highway to its intersection with State Secondary Road 1753, thence northward along said road to its junction with State Secondary Road 1919, thence eastward to the point of beginning.

The Hodges, M. B., farm located on the east side of State Secondary Road 1507 and 1.1 miles north of State Highway 118.

*Richmond County.* The Autry, J. H., farm located on the north side of State Secondary Road 1603 and 0.7 mile east of Osborne.

The Beck, Lucy A., farm located on both sides of State Secondary Road 1607 and 0.4 mile southeast of the intersection of said road and State Secondary Road 1603.

The Bethea, Queen, farm located on the northeast side of State Secondary Road 1303 and 0.4 mile southeast of the intersection of said road and State Secondary Road 1325.

The Chappell, Fred, Jr., located on the northwest side of N.C. Highway 177 and 0.5 mile northeast of the junction of said road and State Secondary Road 1607.

The Clinton, Bernice, farm located on the south side of State Secondary Road 1803 and 0.8 mile east of Osborne.

The David, Ethel, farm located on both sides of State Secondary Road 1803, on the



west side of the intersection of said road with State Secondary Road 1825.

The Davis, Climon, farm located on the northwest side of N.C. Highway 38 and 0.5 mile northeast of the intersection of said road and State Secondary Road 1803.

The Davis, Katherine, farm located on the northeast side of State Secondary Road 1803 and 0.4 mile northwest of the intersection of said road and N.C. Highway 88.

The Dial, Dormic, farm located on the north side of State Secondary Road 1607 and 0.8 mile west of the intersection of said road and State Secondary Road 1608.

The Dumas, Elnora, farm located on the northeast side of State Secondary Road 1803 and 0.3 mile southeast of the intersection of said road and State Secondary Road 1825.

The Dumas, Reba, farm located on the northeast side of State Secondary Road 1803 and 0.3 mile northwest of said intersection of N.C. Highway 38.

The Elizhbugar, Charity, farm located on the northeast side of State Secondary Road 1003 and 2 miles northwest of its junction with State Secondary Road 1475.

The Halley, Annie, farm located on the north side of State Secondary Road 1475 and 1.7 miles west of its junction with U.S. Highway 1.

The Halley, Maria, farm located on the southwest side of State Secondary Road 1440 and 0.3 mile southeast of its junction with State Secondary Road 1433.

The Hamlet Gln & Supply Co., farm located on both sides of State Secondary Road 1803 and on the east side of the intersection of said road and State Secondary Road 1825.

The Ingram, Rome, farm located on the southwest side of State Secondary Road 1003 and 1.8 miles northwest of its junction with State Secondary Road 1475.

The Jenkins, Dewey, farm located on a dirt road 0.2 mile southwest of its junction with State Secondary Road 1803, said junction being 0.8 mile east of Osborne.

The Little, John, farm located on the southeast side of State Secondary Road 1442 and at the junction of said road with State Secondary Road 1476.

The McLaurin, Meta, farm located on the southwest side of State Secondary Road 1803 and 0.3 mile southeast of the intersection of said road and State Secondary Road 1825.

The McNeill, Dalton, farm located on the southwest side of State Secondary Road 1003 and 1.9 miles northwest of its junction with State Secondary Road 1475.

The Quick, Julius, farm located on the northeast side of State Secondary Road 1992 and 0.6 mile northeast of its junction with State Secondary Road 1994.

The Rush, Eli, farm located on the northwest side of State Secondary Road 1442 and 0.7 mile northeast of its junction with State Secondary Road 1489.

The Rush, James, farm located on the southeast side of State Secondary Road 1442 and 0.7 mile northeast of its junction with State Secondary Road 1489.

The Scholl, H. H., farm located on the southwest side of State Secondary Road 1805 and 0.3 mile southeast of its junction with State Secondary Road 1804.

The Sorenzen, Gladys, farm located on the southwest side of State Secondary Road 1803 and 0.4 mile northwest of the intersection of said road and N.C. Highway 38.

The Standback, Tommy, farm located on the east side of U.S. Highway 220 and 0.6

mile northeast of its junction with State Secondary Road 1433.

The Steen, Willard, farm located on the southwest side of State Secondary Road 1803 and 0.2 mile southeast of the intersection of said road and State Secondary Road 1825.

The Terry, Ruth, farm located on both sides of State Secondary Road 1442 and 0.2 mile northeast of its junction with State Secondary Road 1477.

The Terry, Tom, farm located on both sides of State Secondary Road 1442 and 0.3 mile northeast of its junction with State Secondary Road 1477.

The Terry, W. C., farm located on the west side of State Secondary Road 1424 at its junction with State Secondary Road 1507 at Roberdel, N.C.

The Thomas, Walter, farm located on both sides of U.S. Highway 220 and 0.4 mile northeast of its junction with State Secondary Road 1433.

The Waters, Will, farm located on both sides of State Secondary Road 1623 and 0.4 mile southwest of its junction with State Secondary Road 1607.

The Watkins, John Q., farm located on the southeast side of State Secondary Road 1476 and 0.3 mile northeast of its junction with State Secondary Road 1442.

The Watkins, Mosby, farm located on both sides of State Secondary Road 1476 and 0.2 mile northeast of its junction with State Secondary Road 1442.

The York, Will, farm located on the northeast side of State Secondary Road 1803 and 0.4 mile northwest of the intersection of said road and N.C. Highway 38.

*Sampson county.* The entire county.

*Scotland County.* That area bounded by a line beginning at a point where U.S. Highway 15-401 intersects the North Carolina-South Carolina State line and extending northeast along said highway to its junction with U.S. Highways 15A-401A, thence north along said highway to its junction with U.S. Highway 501, thence north along said highway to its intersection with U.S. Highway 15-401, thence southwest along said highway to its intersection with State Secondary Road 1300, thence northwest along said road to its junction with State Secondary Road 1116, thence northwest along said road to its junction with State Secondary Road 1324, thence north along said road to its junction with State Secondary Road 1345, thence northwest along said road to its intersection with State Secondary Road 1341, thence northeast along said road to its junction with State Secondary Road 1328, thence north along said road to its intersection with the southern boundary of the Sandhills Game Management Area, thence east along said boundary to its intersection with U.S. Highway 15-501, thence north along said highway to its intersection with the Scotland-Hoke County line, thence southeast along said county line to the Scotland-Robeson County line, thence south and southwest along said county line to the North Carolina-South Carolina State line, thence northwest along said State line to the point of beginning, excluding the area within the corporate limits of the city of Laurinburg and the town of East Laurinburg.

The Bunch, Archie W., farm located at the intersection of State Secondary Roads 1323 and 1001.

The Butler, Luther, farm located on the south side of State Secondary Road 1154 and 0.2 mile east of the junction of said road with State Secondary Road 1155.

The Calhoun, L. E., farm located on the south side of State Highway 79 and 0.3 mile west of its junction with State Secondary Road 1118.

The Gibson, H. P., Estate farm located on the north side of State Highway 79 and 0.4 mile west of its junction with State Secondary Road 1118.

The Morgan, J. D., farm located on the east side of State Secondary Road 1346 and 0.5 mile north of the junction of said road with State Secondary Road 1343.

The Morgan, J. D., farm located on both sides of State Secondary Road 1345 and 0.1 mile northwest of its junction with State Secondary Road 1342.

The Newton, Peter F., farm located at the intersection of State Secondary Roads 1334, 1336, and 1345.

The Sharpe, Preston, farm located on the south side of U.S. Highway 74 and 0.2 mile west of the junction of said highway with State Secondary Road 1153.

The Steele, J. D., farm located on both sides of State Secondary Road 1351 and 0.9 mile northwest of the junction of said road with State Secondary Road 1346.

*Wayne County.* That area bounded by a line beginning at a point where the Neuse River joins the northwestern corner of the city limits of Seven Springs, thence south along said city limits to its junction with State Highway 55, thence southwest and west along said highway to its intersection with State Secondary Road 1937, thence northerly on said road to its junction with State Secondary Road 1932, thence north on said road to its intersection with State Secondary Road 1120, thence easterly along said road to its junction with State Secondary Road 1915, thence east along a line projected from a point at the junction of State Secondary Roads 1120 and 1915 to the junction of said line with a point located at the junction of Sleepy Creek and Neuse River, thence east, north, and southeasterly along the Neuse River to the point of beginning.

The Barwick, George, farm located on the east side of State Secondary Road 1931 and 0.1 mile south of its junction with State Secondary Road 1930.

The Baucom, Howard, farm located on the east side of State Secondary Road 1932 and 0.2 mile north of its junction with State Secondary Road 1927.

The Benton, Bernice L., farm located on the south side of State Secondary Road 1730 and 0.3 mile east of its junction with State Highway 111.

The Benton, Betty, farm located on the south side of State Secondary Road 1730 and 0.9 mile east of its junction with State Highway 111.

The Brock, Odell, farm located on the north side of State Secondary Road 1210 and 0.3 mile east of its junction with State Secondary Road 1209.

The Carraway, Ethel, farm located on the east side of State Secondary Road 1915 and 0.1 mile north of the junction of said road and State Secondary Road 1120.

The Casey, Emma E., farm located 7 miles east of Goldsboro on the north side of U.S. Highway 70 and 0.4 mile east of the junction of State Secondary Road 1721 and said highway.

The Coor, O. S., farm located on both sides of State Secondary Road 1730 and 0.6 mile east of its junction with State Highway 111.

The Crawford, William P., farm located on the south side of State Secondary Road

1330 and 0.9 mile west of State Highway 581.

The Daly, N. B., farm located on the north side of State Secondary Road 1730 and 0.8 mile east of the junction of said road with State Highway 111.

The Dawson, L. A., farm located on the west side of State Highway 111 and 0.5 mile south of the junction of said highway and State Secondary Road 1730.

The Flowers, Willie, farm located on the north side of U.S. Highway 13 and 0.4 mile east of its junction with State Secondary Road 1207.

The Grady, Mrs. Sim, farm located in the north junction of State Highway 111 and State Secondary Road 1730.

The Grady, Vernie C., farm located on the west side of State Secondary Road 1931 and 0.2 mile north of its intersection with State Secondary Road 1120.

The Grant, Maggie, Estate located on the west side of N.C. Highway 111 and 1.9 miles south of the junction of State Secondary Road 1730 with said highway.

The Grantham, Barfield, farm located on the west side of State Secondary Road 1931 and 0.4 mile north of its intersection with State Secondary Road 1120.

The Gray, Albert, farm located on the east side of State Secondary road 1719 and 0.9 mile south of its intersection with U.S. Highway 70.

The Griffin, McKinley, farm located on the north side of State Secondary Road 1737 and 0.2 mile east of its junction with State Secondary Road 1731.

The Griffin, Oliver H., farm located 0.6 mile north of Dudley and 0.2 mile west of U.S. Highway 117.

The Griffin, W. A., farm located on the northeast side of State Secondary Road 1731 and 0.6 mile north of its junction with State Secondary Road 1737.

The Griswold, John M., farm located on the south side of State Secondary Road 1730 and 0.3 mile west of its junction with State Secondary Road 1727.

The Gurley, Clara Lee, farm located on the south side of State Secondary Road 1330 and 0.1 mile west of the junction of said road and State Secondary Road 1332.

The Haggin, Joe, No. 1, farm located on the east side of State Secondary road 1931 and 0.7 mile north of its intersection with State Secondary Road 1120.

The Haggin, Joe, No. 2, farm located on the east side of State Secondary Road 1931 and 1.1 miles northeast of its intersection with State Secondary Road 1120.

The Ham, George E., farm located southeast of Seymour Johnson Air Base on the south side of State Secondary Road 1909 and 0.7 mile west of the junction of said road with State Secondary Road 1910.

The Herring, Harmon, farm located on the south side of State Secondary Road 1734 and 0.4 mile east of its junction with State Secondary Road 1731.

The Herring, Thel, farm located on the west side of State Secondary Road 1711 and 0.4 mile north of its junction with U.S. highway 70A.

The Hines, J. D., farm located on both sides of State Secondary Road 1236 and 0.8 mile east of the intersection of said road with State Highway 581.

The Hollaman, R. J., farm located on the northwest corner of State Secondary Road 1125 and 0.7 mile north of the junction of said road and State Secondary Road 1122.

The Humphrey, Josephine, farm located on east side of State Secondary Road 1932

and 0.2 mile north of its intersection with State Secondary Road 1120.

The Ivey, W. H., farm located on the south side of State Secondary Road 1734 and 0.3 mile east of its junction with State Secondary Road 1731.

The Johnson, J. R., farm located on the south side of State Secondary Road 1330 and 0.1 mile west of the junction of said road and State Secondary Road 1332.

The Jones, Mary, farm located on both sides of State Secondary Road 1730 and its junction with State Secondary Road 1731.

The Lane, Alfred, farm located on the south side of State Secondary Road 1730 and 0.4 mile east of its junction with State Highway 111.

The Lofton, Burt & Davis, King, farm located on the east side of State Secondary Road 1739 and 0.3 mile south of its junction with State Highway 55.

The McClenny, G. A., farm located on the south side of State Secondary Road 1007 and 0.1 mile west of the junction of said road with State Highway 581.

The McClenny, G. A., No. 2, farm located on both sides of State Secondary Road 1332 and 0.1 mile north of junction of said road and State Secondary Road 1330.

The Newsome, Paul, farm located on the east side of State Secondary Road 1719 and 1 mile south of its intersection with U.S. Highway 70.

The Oliver, Estella J., farm located on the west side of U.S. Highway 117 and 0.8 mile north of Brogden School.

The Oliver, H. H., farm located on the south side of State Secondary Road 1219 and 0.4 mile east of its junction with State Secondary Road 1218.

The Parks, Robert, farm located on the southeast side of State Secondary Road 1932 and 0.5 mile northeast of its intersection with State Secondary Road 1120.

The Perkins, Joe D., farm located on the northwest side of State Secondary Road 1711 and 0.2 mile southwest of the intersection of said road with U.S. Highway 70 Bypass.

The Ray, Cora Pate, farm located on both sides of State Secondary Road 1730 and 0.8 mile west of its junction of State Secondary Road 1731.

The Raynor, A. B., farm located on the south side of U.S. Highway 13 and 0.1 mile east of its junction with State Secondary Road 1207.

The Raynor, Early, No. 1, farm located on the south side of U.S. Highway 13 and 0.3 mile east of its junction with State Secondary Road 1207.

The Raynor, Early, No. 2, farm located on the north side of State Secondary Road 1101 and 0.7 mile east of its intersection with State Secondary Road 1105.

The Raynor, Elester, farm located on the east side of State Secondary Road 1105 and 0.8 mile south of its intersection with U.S. Highway 13.

The Sasser, Rosa, farm located on both sides of State Highway 111 and 0.1 mile south of its junction with State Secondary Road 1912.

The Smith, Alfred, farm located on the north side of State Secondary Road 1330 and 0.9 mile west of the junction of said road and North Carolina Highway 581.

The Smith, Arnold, farm located on the southeast side of State Secondary Road 1932 and 0.5 mile northeast of its intersection with State Secondary Road 1120.

The Smith, Olivia, farm located on the southeast side of State Secondary Road

1122 and both sides of State Secondary Road 1124.

The Sutton, D. M., farm located on the east side of State Secondary Road 1731 and 0.9 mile north of the Neuse River.

The Sutton, Gordon, farm located on the south side of State Secondary Road 1739 and 1.6 miles east of its junction with State Highway 111.

The Talton, Lillian D., farm located on the south side of State Secondary Road 1730 and 0.6 mile east of its junction with State Highway 111.

The Tart, John, No. 1, farm located on the south side of U.S. Highway 13 and 0.7 mile east of its intersection with State Secondary Road 1105.

The Thornton, S. E., farm located on the southeast junction of State Secondary Roads 1210 and 1209.

The Turnage, W. H., farm located on the northwest side of State Secondary Road 1932 and 0.3 mile northeast of its junction with State Secondary Road 1927.

The Weaver, Luby W., farm located on both sides of State Secondary Road 1106 and 0.2 mile east of its junction with State Secondary Road 1101.

The Whitfield, Herman, farm located at the end of State Secondary Road 1729.

The Williams, Eddie, farm located on the north side of State Highway 581 and the east side of State Secondary Road 1236 at the junction of said roads.

The Wise, Ella, farm located on the south side of State Secondary Road 1203 and 1 mile west of its junction with State Secondary Road 1209.

Wilson County. The Eatmon, Ralph, farm located on both sides of State Secondary Road 1302 and 0.5 mile east of its intersection with State Secondary Road 1301.

2. That part of §301.80-2a, describing the existing suppressive areas in Darlington County, S.C., is amended by deleting the following property:

The Carrigan, L. F., estate farm located on the east side of U.S. Highway 52 and 0.2 mile southwest of its junction with State Secondary Highway 133.

3. That part of §301.80-2a, describing the existing suppressive areas in Horry County, S.C., is amended by adding the following property in the appropriate alphabetical order of the owner's last name.

The Hucks, Edd, farm located on the north side of a dirt road and 1 mile west of its junction with State Secondary Highway 169, said junction being 1.5 miles northeast of the junction of said highway and State Secondary Highway 79.

4. That part of §301.80-2a, describing the existing suppressive areas in Marlboro County, S.C., is amended to read as follows:

SOUTH CAROLINA

• • • • •  
(2) *Suppressive area.*  
• • • • •

Marlboro County. That portion of the county lying south and east of U.S. Highway 15, excluding the area within the corporate limits of the towns of Bennettsville, McColl, and Tatum.

The Chavis, Homer, estate farm located in the north corner of the intersection of State Secondary Highway 209 with State Primary Highway 9.

The Holmes, T. H., farm located on the south side of the South Carolina-North Carolina State line and 0.5 mile east of its intersection with State Primary Highway 177.

The McCall, Gracie, farm located on the east side of State Secondary Highway 257 and 0.5 mile northeast of its intersection with State Secondary Highway 165.

The McCall, Jim, estate farm located on the south side of a dirt road and 0.4 mile west of its junction with State Secondary Highway 257, said junction being 0.4 mile northeast of the intersection of said highway and State Secondary Highway 165.

The McKay, Cleveland, farm located on the north side of State Secondary Highway 54 and the west side of the State Secondary Highway 30 at the intersection of said highways.

The McKay, Cleveland, farm located on the east side of a dirt road and 0.6 mile northeast of the junction of said dirt road and State Secondary Highway 30, said junction being 0.3 mile north of the junction of said highway and State Secondary Highway 54.

The McQueen, Mable N., farm located on the northwest side of State Secondary Highway 17 and 0.6 mile northeast of its junction with State Secondary Highway 22.

The Pearson, Queen, farm located on the east side of a dirt road and 0.7 mile southwest of its junction with State Primary Highway 79, said junction being 0.3 mile south of the intersection of said highway and State Secondary Highway 71.

The Powell, Ezra, farm located on the south side of the South Carolina-North Carolina State line and 0.4 mile east of its intersection with State Primary Highway 177.

The Rogers, John B., farm located on both sides of State Secondary Highway 48 and 1.4 miles northeast of its intersection with State Secondary Highway 47.

The Quick, Hannah, farm located on the southeast side of State Secondary Highway 165 and 1.2 miles southwest of its intersection with State Secondary Highway 257.

The Strong, Marvin, farm located on the south side of the South Carolina-North Carolina State line and 1.3 miles east of its intersection with State Primary Highway 177.

(Sec. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477; 38 FR 19141; 7 CFR 301.80-2.)

The Deputy Administrator of the Plant Protection and Quarantine Programs has determined that the witchweed has been found or there is reason to believe it is present in the civil divisions and parts of civil divisions listed above as regulated areas or that it is necessary to regulate such areas because of their proximity to witchweed infested localities. Further, the Deputy Administrator has found that facts exist as to the pest risk involved in the areas removed from the list of regulated areas which make it safe to relieve the requirements of the quarantine as provided herein. He has also determined that the areas are eligible for such designation under § 301.80-1, as amended.

The Deputy Administrator has also determined that each of the quarantined States, wherein only portions of the State have been designated as regulated areas, has adopted and is enforcing a quarantine or regulation which imposes restrictions on intrastate movement of the regulated articles which are substantially the same as the restrictions on interstate movement of such articles imposed by the quarantine and regulations in this subpart, and that designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of witchweed. Therefore, such civil divisions and parts of civil divisions listed above are designated as witchweed regulated areas.

The amendments should be made effective promptly in order to relieve persons in suppressive areas, where witchweed has been eradicated, from further unnecessary restrictions. Prompt implementation of the amendments is necessary to prevent the spread of witchweed and to facilitate its eradication in counties where suppressive areas are being established or expanded. Further, it does not appear that public participation in this rule-making proceeding would make additional relevant information available to the Department, which would alter the decision in this matter.

Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the amendments are unnecessary and contrary to the public interest; and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, has determined that this document does not contain a major proposal requiring the preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., this 28th day of June 1978.

JAMES O. LEE, Jr.,  
Deputy Administrator, Plant  
Protection and Quarantine  
Programs, Animal and Plant  
Health Inspection Service.

[FR Doc. 78-18466 Filed 7-3-78; 8:45 am]

[3410-05]

## CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

### SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENT

#### PART 729—PEANUTS

#### Subpart—Acreage Allotments, Marketing Quotas, and Poundage Quotas for 1978 and Subsequent Crops of Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This amendment sets forth the rules for establishing farm peanut acreage allotments, farm yields, and farm poundage quotas to implement the Food and Agriculture Act of 1977. The rules for identification of marketings, assessment of marketing quota penalties, and processing of violations will be issued in a later amendment. The most significant provisions of this amendment are the determination of farm yields and poundage quotas and transfers on a poundage basis.

EFFECTIVE DATE: July 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Jack S. Forlines, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-4695.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on April 4, 1978 (43 FR 14025). A total of 47 comments were received in response to the notice.

#### RESPONSE TO COMMENTS

1. *Restriction on undermarketings.* There were 44 comments which recommended that undermarketings not apply if the undermarketing was a result of a producer contracting to market peanuts for export or crushing. Peanuts marketed through contracting for export or crushing are classified as additional peanuts and are therefore not marketings of quota peanuts. The law provides that undermarketing credit be made on the basis of the amount by which the marketings of quota peanuts is less than the farm poundage quota. Accordingly, no change was made in this provision.

2. *Determination of farm yields.* There were two comments received on



the restriction placed on determining farm yields. They recommended that provision be made for adjustment in the farm yield if a natural disaster during the base period caused the farm yield to be below normal. The law limits appraisal of a farm yield to those cases in which there was a substantial change in the operation of the farm during the period 1973-77. A low yield caused by a natural disaster is not considered a substantial change in the operation of the farm; therefore, no provision will be made for adjustment of a farm yield due to natural disaster during the period 1973-77.

3. *Filing amended ASCS-375 for multiple-year transfer agreement.* There was one comment received recommending that an amended ASCS-375 not be required for multiple-year transfer agreements approved before 1978. Since the means of effecting peanut transfers under the Food and Agriculture Act of 1977 is on a poundage basis, and since multiple-year transfer agreements approved before 1978 were based on acreage and not on poundage, there is not sufficient information on the existing ASCS-375 on which to effect the transfer. Therefore, an amended ASCS-375 is necessary before a transfer may be approved.

4. *Other changes.* The provision in 7 CFR 729.30 which would have restricted the transfer of allotment to a farm on which the basic allotment is reduced to zero due to a violation has been removed. This provision is believed to be unduly restrictive and unnecessary to the effective administration of the peanut program. Minor changes were also made in the proposed regulations for clarification.

#### FINAL RULE

7 CFR 729.1-729.45 and the title of the subpart are revised to read as follows:

#### Subpart—Acreage Allotments, Marketing Quotas, and Poundage Quotas for 1978 and Subsequent Crops of Peanuts

##### Sec.

- 729.1 Basis and purpose.
- 729.2 Extent of calculations and rule of fractions.
- 729.3 Definitions.
- 729.4 Types of peanuts.
- 729.5 Supervisory authority of State committee.
- 729.6 Instructions and forms.
- 729.7 Determination of farm peanut history acreage.
- 729.8 Determination of preliminary farm acreage allotment.
- 729.9 Reserves for corrections, missed farms, inequities, and for new farms.
- 729.10 Computation of farm acreage allotment for old farms.
- 729.11 Additional acreage allotments for farms producing types of peanuts in short supply.
- 729.12 Determination of effective farm acreage allotment and effective farm poundage quota.

##### Sec.

- 729.13 Increase in farm poundage quota for undermarketings.
- 729.14 Determination of farm yields.
- 729.15 Determination of farm yield on a farm reconstituted after farm yields have been established.
- 729.16 Determination of preliminary farm poundage quota and farm poundage quota.
- 729.17 New farm allotment.
- 729.23 Approval of allotment and farm poundage quota and notice to farm operator.
- 729.24 Erroneous notice of allotment and poundage quota.
- 729.25 Application for review.

#### Transfers and Release and Reapportionment

- 729.30 Terms and conditions applicable to transfers under section 358a of the act.
- 729.31 Transfer of peanut farm acreage allotment for farms affected by a natural disaster.
- 729.32 Release and reapportionment.

#### Marketing Cards and Producer Identification Cards

- 729.42 Issuance of cards.
- 729.43 Claim stamping marketing cards.
- 729.44 Invalid cards.
- 729.45 Misuse of marketing card.

**AUTHORITY:** Secs. 301, 358, 358a, 359, 361-368, 372, 373, 375, 377, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 81 Stat. 658, 55 Stat. 90, as amended, 52 Stat. 62, as amended, 63, as amended, 64, 65, as amended, 66, as amended, 70 Stat. 206, as amended; 7 U.S.C. 1301, 1358, 1358a, 1359, 1361-1368, 1372, 1373, 1375, 1377; and secs. 801, 802, 803, 804, 805, 806, 91 Stat. 944 (7 U.S.C. 1358).

#### § 729.1 Basis and purpose.

The regulations contained in this subpart are issued in accordance with the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), and are applicable to peanuts for the 1978 and subsequent crops. They govern the establishment of farm acreage allotments and marketing quotas, farm poundage quotas, the issuance of marketing cards, the identification of marketings of peanuts, the collection and refund of penalties, and the keeping of records, and making reports incident thereto.

The allotment and marketing quota regulations for peanuts of the 1972 and subsequent crops (37 FR 2645 and 37 FR 3629, as amended) are superseded but remain effective with respect to the 1972 through the 1977 crops of peanuts.

#### § 729.2 Extent of calculations and rule of fractions.

Round computations according to provisions of part 793 of this chapter. Express:

- (a) Acreage and allotment in acres and tenths of acres.
- (b) The percentage of excess peanuts for a farm in percent and tenths of a percent.
- (c) A converted penalty rate in cents and hundredths of a cent per pound.

(d) Penalty or damages in dollars and cents.

(e) The quantity of peanuts marketed, a farm marketing quota, a farm poundage quota, a farm yield and an actual yield per acre in whole pounds.

(f) All factors as a four place decimal fraction.

#### § 729.3 Definitions.

The definitions in and provisions of parts 718, 719, and 720 of this chapter are hereby incorporated in these regulations unless the context or subject matter or the provisions of these regulations requires otherwise. References to other parts of this chapter or title include any amendments to the referenced parts. Unless the context or subject matter requires otherwise, the following words and phrases, as used in this subpart and in all related instructions and forms shall mean:

(a) *Act.* The Agricultural Adjustment Act of 1938, as amended.

(b) *Additional peanuts.* Any peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

(c) *Areas.* (1) The southeastern area consisting of the States of Alabama, Georgia, Mississippi, Florida, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers.

(2) The southwestern area consisting of the States of Arizona, Arkansas, California, Louisiana, New Mexico, Oklahoma, and Texas.

(3) The Virginia-Carolina area consisting of the States of Missouri, North Carolina, Tennessee, Virginia, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers.

(d) *Base period.* The 3 calendar years immediately preceding the year for which farm allotments are being established.

(e) *Buyer.* A person who:

(1) Buys or otherwise acquires peanuts in any form;

(2) Markets, as a commission merchant, broker, or cooperative, any peanuts for the account of a producer and is responsible to the producer for the amount received for the peanuts; or

(3) Receives peanuts as collateral for or in settlement of a price support loan.

(f) *Considered planted acreages.* Acreages determined for the current year for use in computing a future peanut allotment. Considered planted acreage for a farm will be the sum of the acreage (limited to the farm acreage allotment less the planted acreage):

- (1) Not planted because of natural disaster,
- (2) Computed for pounds of quota transferred from the farm,
- (3) In eminent domain pool,
- (4) Preserved under provisions of part 719 of this chapter, and,

(5) Determined by subtracting the planted credit from the farm acreage allotment provided that the quantity of peanuts produced and marketed from the farm in the current marketing year was equal to or greater than 75 percent of the farm poundage quota.

(g) *Director*. The Director, or Acting Director, Production Adjustment Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(h) *Effective farm acreage allotment*. The allotment determined under § 729.12.

(i) *Effective farm poundage quota*. The quota determined under § 729.12 of this chapter.

(j) *Excess acreage*. The amount by which the final acreage of peanuts exceeds the effective farm acreage allotment after approval of any transfer agreement (ASCS-375) filed on or before the earlier of: (1) The date the farm operator files a report of the planted acreage of peanuts on the farm, or (2) June 14, except that the excess acreage will not be considered as excess acreage when: (i) The final acreage is 1 acre or less, (ii) no acreage and quota has been transferred from the farm or released to the county committee for reapportionment, and (iii) no producer who shares in the peanuts also shares in peanuts on another farm.

(k) *Excess peanuts*. (1) The quantity of quota peanuts marketed or considered marketed in the current marketing year in excess of the effective farm poundage quota, or (2) peanuts produced on excess acreage.

(l) *Farm acreage allotment*.—(1) *Old farm*. The preliminary farm acreage allotment for the current year multiplied by the current year State allotment factor plus any permanent adjustments.

(2) *New farm*. The allotment established according to § 729.17 by the county committee with the concurrence of the State committee.

(m) *Farm base production poundage*. The pounds determined by multiplying the farm acreage allotment by the farm yield and hereinafter referred to as the preliminary farm poundage quota.

(n) *Farm marketing quota*. The actual production of peanuts on the effective farm acreage allotment.

(o) *Farm poundage quota*. The pounds determined by multiplying the preliminary farm poundage quota by the national quota factor.

(p) *Farm yield*. The farm yield determined as provided in § 729.14.

(q) *Farm peanut history acreage*. The acreage determined under § 729.7 which is considered as devoted to peanuts on a farm for purposes of establishing future allotments.

(r) *Farmers stock peanuts*. Picked or threshed peanuts produced in the

United States which have not been shelled, crushed, cleaned, or otherwise changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the State in which picked or threshed peanuts are customarily marketed by producers.

(s) *False identification*. False identification is:

(1) Identifying or permitting the identifying of peanuts at time of marketing as having been produced on a farm other than the farm of actual production; or

(2) Marketing or permitting the marketing of peanuts from a farm without identifying the peanuts with a peanut marketing card issued for the farm; or

(3) Permitting the use of the peanut marketing card for the farm to record a marketing of peanuts when, in fact, no peanuts were marketed from the farm.

(t) *Final acreage*. The acreage on the farm from which peanuts are picked or threshed as determined and adjusted under part 718 of this chapter.

(u) *Green peanuts*. Peanuts which, before drying or removal of moisture from the peanuts either by natural or artificial means, are marketed by the producer for consumption exclusively as boiled peanuts.

(v) *Handler*. Any person or firm who acquires peanuts through a business of buying, shelling, or drying peanuts.

(w) *Inspector*. A Federal or Federal State inspector authorized or licensed by the Secretary, U.S. Department of Agriculture.

(x) *Market*. To dispose of peanuts, including farmers stock peanuts, shelled peanuts, cleaned peanuts, or peanuts in processed form, by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. The terms "Marketed", "marketing", and "for market" shall have corresponding meanings to the term "market" in the connection in which they are used. The terms "barter" and "exchange" shall include the payment by the producer of any quantity of peanuts for the harvesting, picking, threshing, cleaning, crushing, or shelling of peanuts, or for any other service rendered to him by anyone. Any lot of farmers stock peanuts will be considered as marketed when delivered by the producer to the buyer pursuant to an oral or written sales agreement, Peanuts which are delivered by the producer as collateral for or in settlement of a price support loan will be considered as marketed at the time of delivery. Any peanuts retained on the farm for seed or other use shall be considered marketings of quota peanuts.

(y) *Marketing year*. For each crop of peanuts, the period beginning August 1 of the current year and ending July 31 of the following year.

(z) *National poundage quota*. The pounds of peanuts determined and an-

nounced by the Secretary for the marketing year as the quantity needed to meet total estimated requirements for domestic edible use and a reasonable carryover and which shall not be less than the following amounts: 1978, 1,680,000 tons; 1979, 1,596,000 tons; 1980, 1,516,000 tons; and 1981, 1,440,000 tons.

(aa) *National quota factor*. The factor determined by dividing the national poundage quota for the marketing year by the total of (1) the preliminary poundage quotas for all farms having a peanut allotment and (2) the product of the total unused reserve acreage in all States times the national average farm yield.

(bb) *New farm*. A farm for which a peanut allotment and farm poundage quota is established in the current year and for which there is no peanut history acreage in the base period.

(cc) *Old farm*. A farm for which there is peanut history acreage in one or more years of the base period.

(dd) *Planted acreage*. The final acreage of peanuts on a farm plus the acreage of peanuts receiving failed acreage credit under the provisions of Part 718 of this chapter.

(ee) *Peanuts*. All peanuts produced, excluding any peanuts which were not picked or threshed before or after marketing from the farm, as established by the producer or otherwise in accordance with this subpart, and excluding any peanuts marketed by the producer before drying or removal of moisture from such peanuts by natural or artificial means for consumption exclusively as boiled peanuts (referred to as "green peanuts").

(ff) *Preliminary farm acreage allotment*. The acreage allotment determined under § 729.8.

(gg) *Preliminary farm poundage quota*. The same as the farm base production poundage.

(hh) *Productivity pool*. A State and county pool into which are placed increases or decreases in acreage resulting from permanent transfers.

(ii) *Quota peanuts*. Peanuts (except green peanuts) which are marketed or considered marketed from a farm for domestic edible use.

(jj) *Seed sheller*. A person who in the course of his usual business operations shells peanuts for producers for use as seed for the subsequent year's crop.

(kk) *State allotment factor*. The factor determined by dividing the State's share of the national acreage allotment, less the acreage reserved under the provisions of this Part, by the sum of the preliminary allotments on all farms in the State plus the acreage in the State productivity pool.

(ll) *Undermarketings*.—(1) *Actual undermarketings*. The pounds by which the effective farm poundage quota exceeds the pounds marketed or considered marketed as quota peanuts.

(2) *Effective undermarketings.* The amount by which the farm poundage quota on an eligible farm shall be increased in the current year for undermarketings in the preceding year, and which shall be determined as follows:

(i) The farm shall be an eligible farm if the planted acreage of peanuts in the preceding year was equal to or greater than the product of the national quota factor times the farm acreage allotment in effect after approval of any transfer agreement which was filed before June 15.

(ii) If 10 percent of the national poundage quota for the marketing year during which the actual undermarketings occurred is equal to or greater than the actual undermarketings on all eligible farms, the increase shall be the same as the actual undermarketings.

(iii) If the conditions in paragraph (1)(2)(ii) of this section are not applicable the increase will be apportioned to each eligible farm in such manner that the increase will not be less than the smaller of the actual undermarketings or 10 percent of the effective farm poundage quota, will not be more than the actual undermarketings, and will be apportioned so as to cause the total of the increases on all eligible farms to equal 10 percent of the national poundage quota for the marketing year during which the actual undermarketings occurred.

(mm) *Yield per acre or actual yield.* The actual yield per acre for the farm obtained by dividing the total production of peanuts for the farm by the final acreage.

#### § 729.4 Types of peanuts.

The generally known types of peanuts have identifying characteristics as follows:

(a) *Runner type peanuts.* Commonly known as African Runner, Alabama Runner, Georgia Runner, Carolina Runner or Wilmington Runner, Dixie Runner, or Runner; produced principally in the Southeastern peanut-producing area of the United States and identified by the following characteristics: Typically two-seeded pods which are practically cylindrical, medium sized, stem end round and the other pointed with a slight keel having shells fairly thick and strong, with shallow veining and corrugation; seeds crowded in pod with adjacent ends sharply shouldered.

(b) *Spanish type peanuts.* Commonly known as White Spanish, Small Spanish, Medium-Small Spanish, or Spanish; produced principally in the Southeastern and Southwestern peanut-producing areas of the United States and identified by the following general characteristics: Typically two-seeded pods which are small, with both ends rounded, the end opposite the stem having an inconspicuous point or keel,

and the waist slender; shells very thin, with veining and corrugation but not deep, and seed globular to oval and practically smooth.

(c) *Valencia type peanuts.* Commonly known as New Mexico Valencia, Tennessee Valencia, Tennessee White, Tennessee Red, or Valencia; produced principally in Tennessee and New Mexico and identified by the following general characteristics: Typically three or four-seeded, and sometimes five-seeded pods which are long and slender, with the end opposite the stem having a definite point or keel with conspicuous veining and corrugation, and seeds globular to oval.

(d) *Virginia type peanuts.* Commonly known as Virginia Runner, Virginia Bunch, North Carolina Runner, North Carolina Bunch, Jumbo, or Virginia; produced principally in North Carolina, Virginia, northeastern South Carolina, and Tennessee, and identified by the following general characteristics: Typically two-seeded pods which are of an average size larger than any other type, pods are roughly cylindrical, with veining and corrugation deep, and seeds cylindrical with pointed ends, length two or three times diameter, and practically smooth.

#### § 729.5 Supervisory authority of State committee.

The State committee shall take any action required to be taken by the county committee which the county committee fails to take and the State committee shall correct or require the county committee to correct any action taken by the committee which is not according to this subpart. The State committee shall also require the county committee to withhold taking any action which is not according to this subpart.

#### § 729.6 Instructions and forms.

The Director shall cause to be prepared and issued such forms and instructions as are necessary for carrying out the regulations in this part. The forms and instructions shall be approved by and the instructions shall be issued by the Deputy Administrator.

#### § 729.7 Determination of farm peanut history acreage.

(a) *Maximum history acreage.* The farm peanut history acreage for any year shall not exceed the farm peanut allotment for such year.

(b) *Farm acreage allotment fully preserved.* The farm peanut history acreage for the current year is the same as the farm acreage allotment for the current year if in the current year or either of the two preceding years, the planted and considered planted acreage of peanuts was as much as 75 percent of the results obtained after subtracting the acreage temporarily re-

leased and the acreage reduced for violation from the:

(1) Farm acreage allotment for 1976 and 1977 years; or

(2) Farm acreage allotment times the national quota factor for 1978 and subsequent years.

(c) *Computation of history acreage.* If the full allotment is not preserved as peanut history acreage under paragraph (b) of this section, the farm peanut history acreage for the current year shall be the planted and considered planted acreage for the current year plus any current year acreage reduction for violation and for acreage temporarily released.

(d) *Reduction of previously determined history.* Notwithstanding any other provision of this subpart, the peanut history acreage for each year of the base period shall be zero unless in one or more years of the base period the farm could have received peanut history acreage other than from acreage released to the county committee or acreage reduction(s) for the violation of marketing quotas.

#### § 729.8 Determination of preliminary farm acreage allotment.

The county committee shall not establish a preliminary farm acreage allotment for a farm if all of the cropland on the farm has been retired from agricultural production and the cropland was not and could not have been acquired under the right of eminent domain. In all other cases, the county committee shall establish a preliminary farm acreage allotment which shall be:

(a) The average of the preceding year's farm acreage allotment and farm peanut history acreage if the farm history acreage is less than 75 percent of the farm acreage allotment.

(b) The preceding year's farm acreage allotment if the preceding year's farm peanut history acreage is equal to or greater than 75 percent of the preceding year's farm acreage allotment.

#### § 729.9 Reserves for corrections, missed farms, inequities and for new farms.

(a) The State committee shall establish a reserve acreage from the State allotment for correcting errors in farm allotments, for establishing allotments for missed farms, and for adjusting inequities. The reserve shall not exceed 2 percent of the State allotment and shall be used to the extent available to correct errors and/or establish allotments for missed farms before adjusting inequities.

(b) In addition to the reserve in paragraph (a) of this section the State committee shall establish a State reserve for new farms based on estimated requirements but not to exceed 1 percent of the State allotment.

(c) Within the limitations provided in paragraph (a) of this section the

State committee may make acreage from the State reserve established under this section available to the county committees for adjusting inequities in farm acreage allotments. To the extent that reserve acreage is available, the county committee may adjust an inequity in the farm acreage allotment if it determines with approval of a representative of the State committee that the adjustment is necessary to establish an allotment for the farm which is equitable when compared with the allotment on other similar old farms in the locality. Upward adjustments shall be made on the basis of the farm peanut history acreage for the base period; labor and equipment available for the production of peanuts; crop-rotation practices; and soil and other physical factors affecting the production of peanuts.

**§ 729.10 Computation of farm acreage allotments for old farms.**

The farm acreage allotment for each old farm for the current year shall be computed by multiplying the preliminary allotment for such farm by the State allotment factor.

**§ 729.11 Additional acreage allotment for farms producing types of peanuts in short supply.**

(a) Any additional acreage allotment apportioned to any State producing peanuts of a type or types determined to be in short supply for the current year, less a reserve for the correction of errors, shall be apportioned among farms on which peanuts of such type or types were produced in any of the 3 years of the base period. The reserve for the correction of errors shall be determined by the State committee on the basis of experience in past allotment programs and its knowledge as to the reliability of data used in apportioning the additional acreage to farms, and shall not exceed 1 percent of the additional acreage apportioned to the State. For each farm eligible to share in the additional acreage apportioned to the State, the county committee shall determine that part of the total farm peanut history acreages for the base period that was devoted to, or considered devoted to, the respective type of peanuts determined to be in short supply. A factor shall be computed by dividing the additional acreage apportioned to the State for the respective type (minus the reserve for the correction of errors) by the State total of acreage devoted to the respective type. The factor(s) shall be rounded to four decimal places. The amount of the increase for each farm shall be computed by multiplying the respective factor by the total acreage determined for each respective type for each eligible farm. The poundage quota shall be increased in the same

proportion that the allotment is increased.

(b) The increase in acreage allotment under this section shall not be considered in establishing future State, county, or farm acreage allotments.

**§ 729.12 Determination of effective farm acreage allotment and effective farm poundage quota.**

The effective farm acreage allotment and the effective farm poundage quota shall be the farm acreage allotment and farm poundage quota plus or minus any adjustments made according to this part as a result of transfer, release, reapportionment, undermarketing, increase in allotment for types of peanuts in short supply, and for a violation reduction.

**§ 729.13 Increase in farm poundage quota for undermarketings.**

The farm poundage shall be increased by the amount of the effective undermarketings. An increase in the farm poundage quota as a result of undermarketings shall not result in an increase in the farm acreage allotment.

**§ 729.14 Determination of farm yields.**

A farm yield shall be determined for each farm for which a farm acreage allotment has been established.

(a) For each farm (except a farm resulting from a combination which became effective during any of the years 1974 through 1977) on which peanuts were produced during 3 or more of the years 1973-77 the farm yield shall be the average of the three highest actual yields per acre on the farm during the crop years 1973 through 1977.

(b) If peanuts were not produced on the farm (or identifiable tract on a farm which resulted from a combination during the period 1974-77) in at least 3 years of the 5-year period 1973-77, the county committee shall appraise a farm yield (or tract yield, if applicable) based on the farm yield on similar farms and in accordance with instructions issued by the Deputy Administrator.

(c) For each farm which resulted from a combination which became effective during any of the year 1974 through 1977 a tract yield shall be determined for each identifiable tract which was included in the combination farm at the time of the combination. The tract yield shall be established in the same manner as the farm yield for a farm which was not involved in a combination. The farm yield for the farm shall be determined by dividing the sum of the products of the tract yields times the allotment attributable to each respective tract by the farm acreage allotment for the farm.

(d) If there was a substantial change in the operation of the farm (or identifiable tract) during the period 1973-77 (including a change in the farm operator, irrigation practice, or other similar condition) the yield (farm or tract) may be adjusted (upward or downward) based on similar farms and in accordance with instructions issued by the Deputy Administrator.

**§ 729.15 Determination of farm yield on a farm reconstituted after farm yields have been established.**

For reconstitutions which are effective after farm yields have been established the farm yield shall be determined as follows:

(a) *Combinations.* The farm yield shall be the weighted average of the tract yields for each identifiable tract in the combined farm, based on the peanut allotment attributable to each respective tract and the tract yield for that tract.

(b) *Divisions.*—(1) *No identifiable tracts having tract yield established.* The farm yield shall be the same for each tract as the farm yield for the parent farm.

(2) *Identifiable tracts with tract yield established.* The farm yield shall be the same as the tract yield established for the tract which is divided from the parent farm.

(3) *Division of an identifiable tract having a tract yield established.* The farm yield shall be the same as the tract yield for the tract which is being divided.

**§ 729.16 Determination of preliminary farm poundage quota and farm poundage quota.**

For each farm for which a farm acreage allotment has been determined the county committee shall determine a preliminary farm poundage quota and farm poundage quota. The preliminary farm poundage quota shall be determined by multiplying the farm acreage allotment by the farm yield as determined under § 729.14. The farm poundage quota shall be determined by multiplying the preliminary farm poundage quota by the national quota factor.

**§ 729.17 New farm allotment.**

(a) *Conditions of eligibility for new farm allotment.* A new farm peanut allotment may be established if each of the following conditions are met:

(1) *Written application.* A written application for a new farm allotment must be filed by the farm operator at the office of the county committee where the farm is administratively located. The application must be filed on or before February 15 of the current crop year.

(2) *Operator requirements.* (1) The operator shall be the sole owner of the entire farm except that the operator's

spouse may be an owner, or joint owner with the operator of all or part of the farm.

(ii) Neither the farm operator nor the operator's spouse, if the spouse has ownership interest in the farm for which the application is filed, shall own, have any ownership interest in, or operate any other farm in the United States for which a peanut allotment is established for the current year.

(iii) The operator must own or have readily available adequate equipment and any other facilities of production (including irrigation water in irrigation areas) necessary to the production of peanuts on the farm.

(iv) Except as provided in paragraph (c) of this section, the operator and the operator's spouse must satisfy the county committee that they expect to obtain during the current year more than 50 percent of their income from the production of agricultural commodities or products. If the operator is a partnership, each partner must expect to obtain more than 50 percent of his/her current year income from farming. If the operator is a corporation, it must have no other major corporate purpose other than ownership or operation of the farm(s). Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(A) *Income from farming.* Income from farming shall include the estimated return from home gardens, livestock, and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s) excluding the estimated return from the production of the requested new farm allotment.

(B) *Income from nonfarming.* Non-farming income shall include but shall not be limited to salaries, commissions, pensions, social security payments, and unemployment compensations.

(C) *Special provision for low-income farmers.* The county committee may waive the income provisions in this section provided the county committee determines with concurrence of a State committee representative, that without the new farm allotment the operator and the operator's spouse jointly will not be able to provide a reasonable standard of living for their family.

(v) The operator must have had experience in producing, harvesting, and marketing peanuts. The experience must have been as a sharecropper, tenant, or farm operator (bona fide peanut production experience gained by a person as a member of a partnership shall be accepted as experience gained in meeting this requirement) during at least 2 of the 5 years immediately preceding the current year. If

the operator was in the armed services during the 5-year period, the period shall be extended 1 year for each year of military service during the 5-year period. The experience must have been on a farm having an effective peanut allotment during each year for which experience is claimed.

(3) *Farm requirements.* The farm:

(i) Must include the type of soil that is suitable for peanut production.

(ii) May not include land from which the entire peanut allotment was permanently transferred by sale or owner within the past five crop years.

(iii) May not include land from which the entire peanut allotment was permanently released within the past three crop years.

(iv) May not include a tract of land which resulted from a division, which became effective during the past three crop years, of a parent farm peanut allotment by the owner designation method pursuant to part 719 of this chapter.

(v) May not include land which was returned to agricultural production within a period of 3 years from the date the former owner was displaced if the entire peanut allotment for the farm of which the land was a part was pooled pursuant to part 719 of this chapter.

(b) *Amount of new farm allotments.* The farm allotment for a new farm shall be that acreage which the county committee, with the approval of a representative of the State committee, determines is fair and reasonable for the farm, taking into consideration the peanut-growing experience of the producer(s) on the farm; land, labor and equipment available for the production of peanuts on the farm; crop rotation practices; and soil and other physical factors affecting the production of peanuts. The farm allotment established for a new farm shall not exceed the smaller of 10 acres or 25 percent of the cropland on the farm without prior approval of the Deputy Administrator.

(c) *Reduction of new farm allotment.* The allotment determined under this subpart for a new farm shall be reduced to the sum of the peanut acreage planted and the acreage prevented from being planted to peanuts due to a natural disaster on the farm when it is found that the sum of the planted and prevented planted acreage is less than 75 percent of the results obtained by multiplying the new farm allotment times the national quota factor.

(d) *Cancellation of new farm allotment.* (1) Any new farm allotment established and any history acreage credit shall be void as of the date the new farm allotment was issued if the State committee determines that the applicant knowingly furnished false, incomplete or inaccurate information to obtain the allotment.

(2) Any new farm allotment established, where incomplete or inaccurate information was unknowingly furnished by the applicant and so determined by the county committee shall be void for the next crop year. However, the cancellation shall not be applicable to the current year or the prior years.

(e) *Farm poundage quota for a new farm.* The county committee shall determine a farm poundage quota for each new farm for which an allotment has been established as follows:

(1) A farm yield determined under 729.14 shall be multiplied by the established new farm allotment to obtain the preliminary farm poundage quota.

(2) The preliminary farm poundage quota shall be multiplied by the national quota factor to obtain the farm poundage quota for the new farm.

§ 729.23 Approval of allotment and farm poundage quota and notice to farm operator.

(a) *Approval.* Each farm acreage allotment, farm yield, preliminary farm poundage quota and farm poundage quota shall be determined under the supervision of and approved by the county committee of the county in which the farm is administratively located, subject to concurrence of the State committee or a representative of the State committee. The initial notice of an acreage allotment and poundage quota shall not be mailed to a farm operator until the allotment and poundage quota has been approved. A revised notice may be mailed without prior approval in any case resulting from: (1) A farm reconstitution that does not require allocation of additional acreage or poundage quota; (2) release and reapportionment of poundage quota; (3) an increase of allotment for type; (4) lease and transfer of poundage quota; or (5) allotment reduction due solely to failure to return marketing cards or otherwise furnish a satisfactory report of disposition of peanuts.

(b) *Notice to farm operator.* (1) As soon as possible after the farm acreage allotment and poundage quota is approved, an official notice of the effective farm acreage allotment and the effective farm poundage quota shall be mailed to the farm operator.

(2) If application for a new farm peanut allotment is disapproved by the county committee because the eligibility requirements for a new farm allotment have not been met, the county committee shall mail to the farm operator a notice of "None" as the farm allotment.

(3) If an old peanut farm loses eligibility for an old farm peanut allotment for the current year, the county committee shall mail to the farm operator a notice of "None" as the farm allotment and poundage quota. The



notice must show the reason why a farm allotment and poundage quota was not established for the farm.

(4) A revised notice of farm allotment and poundage quota shall be mailed to the farm operator as soon as possible after the county committee determines that an incorrect notice has been mailed or the county committee takes an action (approves lease, reconstitution, etc.) which requires a revision of the previously determined allotment and poundage quota.

(5) The notice to the operator shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment is established.

(6) Insofar as possible and practical, all notices shall be mailed in time to be received prior to the date of any peanut marketing quota referendum.

(7) A copy of each notice or a print-out summary of the data from each notice shall be displayed for 30 days in the county office and shall thereafter remain available for public inspection.

(8) Upon request, a certified copy of the notice shall be furnished, without charge to any person who has an interest in peanuts on the farm as an operator, landlord, tenant, or sharecropper in the year for which the notice is issued.

#### § 729.24 Erroneous notice of allotment and poundage quota.

(a) *Allotment erroneous notice.* If the official notice of the farm acreage allotment and poundage quota issued for any farm erroneously stated an acreage allotment larger than the correct effective farm acreage allotment, the acreage allotment shown on the erroneous notice shall be used as the peanut acreage allotment for the farm for the current marketing year only, if the county committee determines (with the approval of the State Executive Director) that (1) the error was not so gross as to place the operator on notice thereof, and (2) the operator, relying upon such notice and acting in good faith (i) materially changes his position to enable him to produce the allotment crop (for example obligated expenditures of funds for land preparation, additional equipment and labor) and (ii) has planted an acreage of peanuts in excess of the correct effective farm acreage allotment.

(b) *Poundage quota erroneous notice.* If the official notice of acreage allotment and poundage quota issued for a farm erroneously stated a poundage quota larger than the correct effective farm poundage quota, the poundage quota shown on the erroneous notice shall be used as the poundage quota and the basis for marketing penalty computation for the farm for the current marketing year only, if the county committee determines

(with approval of the State Executive Director) that (1) the error was not so gross as to place the operator on notice thereof, and (2) that the operator was not notified of the correct farm poundage quota prior to marketing peanuts as quota peanuts in excess of the correct farm poundage quota. Undermarketings for farms for which the erroneous notice of poundage quota is applied shall be determined on the basis of the correct effective farm poundage quota for the farm.

(c) *Notice of excess and penalty.* The county committee shall mail to the farm operator a written notice of excess acreage for any farm with excess peanut acreage. Such notice shall contain a brief statement of the procedure whereby application for review of the marketing quota may be made under section 363 of the act. The notice shall bear the actual or facsimile signature of a member of the county committee. The facsimile signature may be affixed by the county committeemen or an employee of the county office. A copy of each notice containing a notation thereon of the date of mailing the notice to the operator of the farm shall be kept among the permanent records of the county committee, and upon request, a copy, certified as true and correct shall be furnished without charge to any person who as operator, landlord, tenant, or sharecropper, is interested in the peanuts produced in the current year on the farm for which the notice is given.

#### § 729.25 Application for review.

Any producer who is dissatisfied with the farm acreage allotment and farm poundage quota established for his new farm may, within 15 days after mailing of the official notice of the farm acreage allotment and poundage quota, file application in writing with the county ASCS office to have such allotment and quota reviewed by a review committee. The review committee has the duty and responsibility to establish the correct, fair, and reasonable acreage allotment, marketing quota, and poundage quota in accordance with law and without regard to reserve acreage available or other limitations upon the county committee when the allotment, marketing quota, and/or poundage quota being reviewed was established. The procedure governing the review of the farm acreage allotments and marketing quotas is contained in part 711 of this chapter, which is available at the county ASCS office.

#### TRANSFERS AND RELEASE AND REAPPORTIONMENT

#### § 729.30 Terms and conditions applicable to transfers under Section 358a of the Act.

(a) *Persons eligible to file a record of transfer.*—(1) *Sale or lease.* The owner

and operator of any farm having an old farm peanut allotment and poundage quota in the current year is eligible to file a record of transfer for sale or lease of all or any part of the farm poundage quota to any other owner or operator of a farm in the same county. The receiving farm need not be an old farm. If the owner(s) and operator of the farm from from which the transfer by sale or lease is to be made are different persons. Each shall execute the record of transfer; however, only the owner(s) or operator of the receiving farm is required to sign the transfer. A county committee member or employee must witness the signature of either the owner or operator of the transferring farm and the owner or operator of the receiving farm. If such signatures cannot be witnessed in the county office where the farm is administratively located, they may be witnessed in any county office convenient to the owner or operator's residence. The requirement that signatures be witnessed for producers who are ill, infirm, reside in distant areas, or are in similar hardship situations or may be unduly inconvenienced may be waived provided the county office mails Form ASCS-375 for the required signature. In the case of a transfer by sale, such request must be accompanied by a statement signed by all parties to the transaction confirming that the sale has been made.

(2) *By owner.* The owner of any farm having an old farm peanut allotment and poundage quota in the current year is eligible to file a record of transfer to transfer the farm poundage quota from the farm to another farm in the same county owned or controlled by the owner. The county committee may approve a temporary transfer to a farm controlled but not owned by the applicant only if the applicant will be the operator of the farm to which transfer is to be made for each of the years for which the transfer is requested. If the county committee determines that the applicant, due to conditions beyond his control, is prevented from remaining the operator of a farm to which an owner transfer has been approved, the transfer may remain in effect for the period specified at the time the transfer was filed. Conditions beyond the owner's control shall include, but are not limited to death, illness, incompetency, or bankruptcy.

(b) *Filing record of transfer.* Form ASCS-375 "Record of Transfer of Allotment or Quota" shall be filed on or before November 30 of the current crop year with the county committee of the county where the farm is administratively located. The State committee may authorize the acceptance of a late-filed record if it determines that the record was not filed timely due to reasons beyond the control of

the owner and operator of the transferring farm.

(c) *Maximum period of transfer by lease or by owner on a temporary basis.* A record of transfer by lease, or by owner on a temporary basis, shall not be for a period exceeding 5 years.

(d) *Farm poundage quota basis for transfer.* Transfers shall be effected by transfer of farm poundage quota. Transfer of farm poundage quota will result in adjustment in the farm acreage allotment on the basis of the farm yields for the transferring and receiving farms respectively. The adjusted acreage shall be determined by multiplying the farm poundage quota transferred by the reciprocal of the national quota factor (1.0 ÷ the national quota factor) and dividing the results by (1) the farm yield for the transferring farm to determine the reduction in acreage for the transferring farm, and (2) the farm yield for the receiving farm to determine the acreage to add to the receiving farm.

(e) *Productivity acreage.* When the poundage quota is transferred by sale or by permanent owner transfer, the productivity pool shall be increased or decreased to reflect the algebraic difference obtained by subtracting the acreage added to the receiving farm from the acreage deducted from the transferring farm.

(f) *Adjustment in national or State allotment.* The adjustment made in any peanut allotment because of the transfer of a higher or lower producing farm shall not reduce or increase the size of any future national or State allotment.

(g) *Transfer not to be approved.* The county committee shall not approve a transfer:

(1) If after approval the total increase in the farm peanut allotment from transfers by purchase in prior years and by lease and purchase in the current year will exceed 50 acres, except that this limitation shall not apply to approval of a transfer filed after June 14.

(2) Of reapportioned poundage quota.

(3) Of poundage quota which resulted from undermarketings.

(4) Of poundage quota which result from approval of a new farm allotment in the current year.

(5) Of poundage quota by sale if allotment or poundage quota was transferred to the farm by sale within the 3 preceding crop years.

(6) If after approval the difference between the effective poundage quota and the effective preliminary poundage quota is less than the pounds of peanuts previously contracted under the provisions of part 1446 of this title.

(h) *Transfer of pooled allotments.* Poundage quotas established for a farm as pooled poundage quotas under

part 719 of this chapter may be transferred:

(1) On a permanent basis during the 3-year life of the pooled poundage quota, or

(2) On a temporary basis for a term of years not to exceed the remaining number of crop years of such 3-year period.

(i) *Consent of lienholder.* A transfer of poundage quota from a farm which the county committee has been informed is subject to a mortgage or other lien shall not be approved unless the transfer is agreed to in writing by the lienholder.

(j) *Transfers to and from a farm.—*

(1) *Transfer filed on or before June 14.* The county committee shall not approve a transfer which is filed on or before June 14 of the current year if approval would result in a transfer both to and from the farm during the period ending on June 14 of the same crop year; *Provided,* That a transfer may be approved if a poundage quota is transferred temporarily from a farm for 1 or more years (and the transfer remains in effect) and the farm is subsequently combined with another farm that is otherwise eligible to receive poundage quota by transfer.

(2) *Transfer filed after June 14.* A temporary transfer of poundage quota either to or from the same farm (but not both) may be approved by the county committee if filed after June 14, even though a transfer which was filed before June 15 is in effect for the farm. Approval shall:

(i) Be limited to 1 year.

(ii) Not be made unless the planted acreage of peanuts on the transferring farm is equal to or greater than an acreage equal to 75 percent of results obtained when multiplying the national quota factor times the farm acreage allotment in effect at the time the farm operator filed a report of the planted acreage of peanuts for the current year.

(iii) Not be made if the poundage quota to be transferred is more than will be required, based on an estimate by the operator of the receiving farm and subject to concurrence of the county committee, to market as quota peanuts the entire production of peanuts from the farm in the current year.

(iv) Be subject to other provisions in this section except for the acreage limitation in paragraph (g) of this section.

(v) Not be made by the county committee before August 16 of the current crop year.

(k) *Effect of transfer on acreage history.—*(1) *Permanent transfer.* The acreage history for both the transferring farm and the receiving farm shall be adjusted for the current year and for the 2 preceding years to reflect the applicable increase or decrease in the allotment which resulted from the transfer.

(2) *Temporary transfer.* An acreage equal to the decrease in allotment as a result of a temporary transfer of poundage quota shall be considered to have been planted on the farm from which the poundage quota was transferred. The increase in allotment resulting from a temporary transfer of poundage quota to a farm shall have no effect on acreage history for the farm.

(l) *Effect of transfer filed after peanut acreage reported or after a violation occurs.* The effective farm acreage allotment and effective farm poundage quota for a farm prior to approval of a transfer shall be used in determining:

(1) Eligibility of a farm for price support if the transfer agreement was filed after the farm operator reported the acreage of peanuts on the farm; or

(2) The percentage of reduction in a farm acreage allotment for a violation of the regulations in this subpart if the violation occurs before approval of the transfer.

(m) *Farm in violation.* If consideration is pending of a violation which may result in an allotment reduction for the current year on the transferring farm, the county committee shall delay approval of the transfer until action on the violation has been completed or a determination has been made that an allotment reduction cannot be made in the current crop year. If an allotment reduction is to be made in the next year's allotment, a transfer by lease shall be limited to one year. The county committee shall delay an allotment reduction until the next year if the committee has approved a transfer from the farm and the effective allotment after the transfer is less than the amount of the allotment reduction.

(n) *Acreage apportioned to farms for types in short supply.* Poundage quota resulting from acreage apportioned to farms for types in short supply pursuant to § 729.11 shall not be transferred by sale or by owner on a permanent basis but such poundage may be transferred by lease or by owner for the current year only.

(o) *County committee action.—*(1) *Approval of transfers.* The county committee shall approve the transfer of poundage quota only if it determines that a timely filed record has been received and that the transfer complies with the requirements of this section. A transfer shall not be effective until approved by the county committee. The county committee may delegate authority to the county executive director and to other county office employees to approve transfers of poundage quotas.

(2) *Notice of revised allotments.* A revised notice of farm allotment and poundage quota must be issued for each farm affected by the transfer of allotment and poundage quota.

(3) *Cancellation of transfer.* A transfer approved on the basis of incorrect information furnished by the parties to the transfer agreement or approved due to error by the county committee shall be canceled as of the date of approval. However, the cancellation shall not be effective for the current marketing year if:

(i) The transfer approval was made on the basis of incorrect information unknowingly furnished in good faith by the parties to the transfer agreement or the transfer approval was made in error by the county committee, and

(ii) The parties to the transfer agreement were not notified of the cancellation prior to planting of the crop.

Where cancellation of a transfer is required, the county committee shall issue revised notices of allotment and poundage quota showing the reasons for cancellation.

(p) *Withdrawal or minor revisions.* Where the county committee determines that it is clearly in the best interest of all the producers and that effective operation of the program will not be impaired, the county committee may permit withdrawal or minor revisions of transfers upon written request by all parties to the transfer; *Provided, That:* (1) temporary transfers may be withdrawn or revised before peanuts are planted during any year of the agreement, and (ii) permanent transfers may be withdrawn or revised before peanuts are planted and only during the first year of the agreement.

(q) *Recomputation of previously approved multiple year transfer.* For a multiple year transfer approved after 1977, annually recompute the transfer by limiting the poundage quota transferred to the smaller of: (1) the poundage quota initially transferred, or (2) the farm poundage quota for the transferring farm. The acres for the transferring and for the receiving farm shall be determined in the same manner as the acres for annual transfer are determined as provided in this part.

(r) *Amendment of multiple year transfer agreements filed on or before December 31, 1977.* Notwithstanding any other provision in this section, a multiple year temporary transfer approved before 1978 shall not be effective after 1977 unless an amended ASCS-375 is filed. The county committee shall notify the operators of both the transferring farm and the receiving farm of the requirement for filing an amended ASCS-375 in order for the previously filed transfer agreement to remain in effect. The amended ASCS-375 must be filed at the county ASCS office within 20 days from date of notification by the county committee that an amended transfer agreement is required. The amended agreement shall be on the basis of farm poundage

quota and shall be agreed upon and signed by each person whose signature is required under the terms and conditions in paragraph (a) of this section.

§ 729.31 Transfer of peanut farm acreage allotment for farms affected by a natural disaster.

(a) *Designation of counties affected by a natural disaster.* The State committee shall determine those counties affected by a natural disaster (including but not limited to hurricane, rain, flash flood, hail, drought, and any other severe weather) which prevents the timely planting or replanting of any of the peanut acreage allotment for any farm in the county. The county committee of each county affected by the determination shall publicize the determination.

(b) *Application for transfer.* The owner or operator of a farm in a county designated for any year under paragraph (a) of this section may file a written application for transfer of peanut acreage within the farm peanut allotment for such year to another farm in the same county or in an adjoining county in the same or adjoining State if such acreage cannot be timely planted or replanted because of the natural disaster. The transfer of the peanut allotment shall also have the effect of transferring the poundage quota. The application shall be filed with the county committee for the county in which the farm affected by such disaster is located. If the application involves a transfer to an adjoining county, the county committee for the adjoining county shall be consulted before action is taken by the county committee receiving the application.

(c) *Amount of transfer.* The acreage to be transferred shall not exceed the farm allotment established under this part less such acreage planted to peanuts and not destroyed by the natural disaster.

(d) *County committee approval.* The county committee shall approve the transfer of such peanut acreage if it finds that:

(1) Such acreage on the transferring farm could not be timely planted or replanted because of the natural disaster; and

(2) One or more of the producers of peanuts on the transferring farm will be a bona fide producer engaged in the production of peanuts on the receiving farm and will share in the proceeds of the peanuts.

(e) *Cancellation of transfers.* If a transfer is approved under this section and it is later determined that the conditions in paragraph (d) of this section have not been met, the county committee, State committee, or the Deputy Administrator may cancel such transfer. Action by the county committee to cancel a transfer shall be

subject to the approval of the State committee or its representative.

(f) *Acreage history credits and eligibility as an old peanut farm.* Any acreage transferred under this paragraph shall be considered for the purpose of determining future allotments to have been planted to peanuts on the farm from which such allotment is transferred.

(g) *Closing dates.* The application for transfer shall be filed with the county committee on or before June 14 of the current year unless the county committee with concurrence of a State committee representative determines that the failure to file the application by June 14 was the result of conditions beyond the control of the applicant.

§ 729.32 Release and reapportionment.

(a) Release and reapportionment shall be effected by temporary or permanent release and temporary reapportionment of farm poundage quota. Release and reapportionment of farm poundage quota will result in a decrease (release) or increase (reapportionment) in the acreage allotment on the basis of the farm yield for the respective farm. The released acreage will be determined by multiplying the released poundage quota by the reciprocal of the national quota factor and dividing the result by the farm yield for the releasing farm. The reapportioned acreage will be determined by multiplying the reapportioned poundage quota by the reciprocal of the national quota factor and dividing the results by the farm yield for the farm receiving the reapportioned poundage quota.

(b) *Release of farm poundage quota.* Except as provided in subparagraph (d), the farm operator may release part or all of the farm poundage quota (except quota resulting from undermarketings in a previous year) by filing a written release with the county committee.

(c) *Closing date to release or to request reapportionment.* The State committee shall establish and publicize the closing date(s) for release of the farm acreage allotment and poundage quota for the State or for areas consisting of one or more counties in the State taking into consideration the normal planting date(s) for the State. The closing date for release shall be no later than the date on which planting of peanuts normally becomes general on farms in the State, area or county. The established date(s) also shall be the closing date for filing a request to receive reapportioned poundage quota.

(d) *Signatures required in special cases.* If the entire allotment was released in each of the 2 years preceding the current year, the release of the entire farm poundage quota for the



current year shall be signed by both the owner and the operator of the farm. If any part of the farm poundage quota is permanently released (i.e., for the current year and all subsequent years), the release shall be in writing and signed by both the owner and operator of the farm. The farm poundage quota may not be released: (1) from a new farm, (2) for the current year, if the owner of the farm files an objection with the county committee in writing, before a release is filed by the operator, and (3) from the eminent domain pool if an application for transfer from the pool has been filed in accordance with part 719 of this chapter.

(e) *Reapportionment of farm poundage quota.* A farm shall be eligible to receive reapportionment of released poundage quota only if a written request is filed by the farm owner or operator at the office of the county committee pursuant to this section. The farm poundage quota released pursuant to this section may be reapportioned by the county committee to other farms in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of land, labor, and equipment available for the production of peanuts; crop-rotation practices; and soil and other physical factors affecting the production of peanuts.

(f) *Closing date for making reapportionment.* Poundage quota released to the county committee may be reapportioned by the county committee to other farms in the county at any time not later than 30 days following the closing date set by the State committee pursuant to this section for filing a request for an increase in the poundage quota.

(g) *Credit for released or reapportioned poundage quota.* The release of the farm poundage quota for the current year only shall not operate to reduce the allotment or poundage quota for the farm for any subsequent year unless the farm becomes ineligible for an old farm allotment. Any increase in the allotment for a farm resulting from reapportionment of farm poundage quota shall not operate to increase the allotment or poundage quota for such farm for any subsequent year.

(h) *Applicability to a farm acquired by an agency having the right of eminent domain.* During any year of the period the peanut acreage allotment and poundage quota from a farm remains in the allotment pool pursuant to part 719 of this chapter, the displaced owner may release all or any part of the farm poundage quota to the county committee.

(i) *No reapportionment of released quota to zero allotment farm.* Poundage quota may not be reapportioned to

a farm on which the basic allotment for the current crop year is reduced to zero for a violation of the peanut marketing quota regulations.

#### MARKETING CARDS AND PRODUCER IDENTIFICATION CARDS

##### § 729.42 Issuance of cards.

(a) *Issuance of marketing cards.* A marketing card (MQ-76) shall be issued in the name of the farm operator for each farm on which peanuts are produced in the current year for use by each producer on the farm for marketing his/her share of peanuts produced except that: (1) a card issued for experimental peanuts shall be issued in the name of the experiment station, and (2) a card issued to a successor-in-interest shall be issued in the name of the successor-in-interest. The face of the marketing card may show the name of other interested producers.

(b) *Issuance of producer identification cards.* A producer identification card shall be issued in the same name that is entered on the marketing card(s) for each eligible farm. The producer identification card will be used to identify the farm on which the peanuts were produced and the card must accompany each lot of peanuts when offered for sale. Producer identification cards shall be issued at the time marketing cards are issued.

(c) *Person authorized to issue cards.* The county executive director shall be responsible for the issuance of marketing cards and producer identification cards.

(d) *Rights of producers and successors-in-interest.* (1) Each producer having a share in the peanuts available for marketing from a farm shall be entitled to the use of the marketing and identification cards for marketing his/her proportionate share of the peanuts produced on the farm.

(2) Any person who succeeds, in whole or in part to the share of a producer in the peanuts available for marketing from a farm, shall, to the extent of such succession, have the same rights to the use of the marketing and identification cards and bear the same liability for penalties as the original producer.

(e) *Data entered on marketing card and supplemental card.*—(1) Before issuance the following data and information must be entered on the marketing card in the spaces provided: (i) Effective farm poundage quota; (ii) if applicable, the pounds of peanuts contracted and the handler number of the contracting handler; and (iii) converted penalty rate, if applicable.

(2) A supplemental marketing card bearing the same name identification as shown on the original marketing card may be issued for a farm upon return to the county office of an origi-

nal marketing card or a supplemental marketing card. The balance of the poundage quota from the returned marketing card shall be entered as the effective farm poundage quota on the supplemental card.

(3) Two or more marketing cards may be issued for a farm if the farm operator specifies in writing the poundage quota (not to exceed the balance of poundage quota available) to be assigned to each card.

(4) Other data specified in instructions issued by the Deputy Administrator shall be entered on the marketing card.

(f) *Data on producer identification cards.*—(1) The identification card issued in the name of the farm operator shall be embossed to show the: (i) name and address of the farm operator, and (ii) the State, county code, and farm serial number. If an embossed identification card is not available the above information shall be entered by the county ASCS office.

(2) A farm operator may receive as many identification cards as may be needed at any one time to accompany each lot of peanuts offered for sale until such time as the peanuts are inspected and MQ-94 has been executed by the inspection service.

(3) After the identification card is returned to the operator it may be used again to identify another lot of peanuts.

(g) *Replacing a lost, stolen, or destroyed marketing card.* A new marketing card shall be issued to replace a card which has been determined by the county executive director who issued the card to have been lost, destroyed, or stolen provided the farm operator gives immediate written notice of such fact and furnishes a satisfactory report of the quantity of peanuts marketed through use of the lost, stolen, or destroyed marketing card.

##### § 729.43 Claim stamping marketing cards.

If a person is indebted to the United States and the indebtedness is listed on the county debt record any marketing card issued for the farm on which the person has a producer interest shall bear the notation "U.S. Claim" followed by the amount of the indebtedness. The name of the indebted producer, if different from the farm operator, shall be recorded directly under the claim notation. A notation showing "PMQ" (peanut marketing quota) as the type of indebtedness shall constitute notice to any peanut buyer that until the amount of penalty and accrued interest is paid, the United States has a lien on the crop of peanuts with respect to which the penalty was incurred and on any subsequent crop of peanuts subject to marketing quotas in which the person liable for payment of the penalty has an interest. A claim notation other than

"PMQ" shall constitute notice to any peanut buyer that subject to prior liens the net proceeds, to the extent of the indebtedness shown, from any price support loan or purchase settlement due the debtor must be paid to the "Agricultural Stabilization and Conservation Service, USDA." The acceptance and use of a marketing card bearing a notation and information concerning indebtedness to the United States shall not constitute a waiver by the indebted producer of any right to contest the validity of such indebtedness by appropriate administrative appeal or legal action. A claim free marketing card shall be issued when the claim has been paid.

#### § 729.44 Invalid cards.

(a) *Reasons for being invalid.* A marketing card shall be invalid under any one of the following conditions:

(1) It is not issued or delivered in the form and manner prescribed.

(2) Any entry is omitted or is incorrect.

(3) It is lost, destroyed, stolen, or becomes illegible.

(4) An erasure of alteration has been made and not initialed by the county executive director.

(b) *Validating invalid cards.* If a marketing card is invalid because an entry is not made as required, the farm operator or other producer shall return the marketing card to the county office. Except for an incorrect entry of converted penalty rate the marketing card may be made valid by entering data previously omitted or by correcting any incorrect data previously entered. The county executive director shall initial each correction made on the marketing card. An invalid card, if not validated shall be canceled and a replacement card shall be issued.

#### § 729.45 Misuse of marketing card.

Any information which causes a member of a State, county, or community committee, or an employee of the State or county office to believe that a marketing card is being misused pursuant to this subpart shall be reported immediately by such person to the county or State office.

Signed at Washington, D.C., on June 23, 1978.

RAY FITZGERALD,  
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-18360 Filed 7-3-78; 8:45 am]

[3410-02]

### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

#### PEACHES, APRICOTS, AND SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON, AND PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREG.

##### Expenses and Rates of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rules.

SUMMARY: These regulations authorize expenses and rates of assessment for the 1978-79 fiscal period, to be collected from handlers to support activities of the committees which locally administer the Federal marketing orders covering peaches, apricots, and sweet cherries grown in designated counties in Washington, and prunes grown in designated counties in Washington and in Umatilla County, Oreg.

DATES: Effective April 1, 1978, through March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to marketing order Nos. 921, 922, 923, and 924 (7 CFR Parts 921, 922, 923, and 924), respectively, regulating the handling of peaches, apricots, and sweet cherries grown in designated counties in Washington, and prunes grown in designated counties in Washington and in Umatilla County, Oreg., effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the committees, established under these marketing orders, and upon other information, it is found that the expenses and rates of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

#### PART 921—PEACHES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

##### MARKETING ORDER 921

§ 921.217 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Washington Fresh Peach Marketing Commit-

tee during fiscal year April 1, 1978, through March 31, 1979, will amount to \$10,607.

(b) The rate of assessment for said year payable by each handler in accordance with § 921.41 is fixed at \$0.90 per ton of peaches.

#### PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

##### MARKETING ORDER 922

§ 922.218 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Washington Apricot Marketing Committee during fiscal year April 1, 1978, through March 31, 1979, will amount to \$2,692.

(b) The rate of assessment for said year payable by each handler in accordance with § 922.41 is fixed at \$1 per ton of apricots.

#### PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

##### MARKETING ORDER 923

§ 923.218 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Washington Cherry Marketing Committee during fiscal year April 1, 1978, through March 31, 1979, will amount to \$29,080.

(b) The rate of assessment for said year payable by each handler in accordance with § 923.41 is fixed at \$0.80 per ton of sweet cherries.

#### PART 924—PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREG.

##### MARKETING ORDER 924

§ 924.218 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Washington-Oregon Fresh Prune Marketing Committee during fiscal year April 1, 1978, through March 31, 1979, will amount to \$20,606.

(b) The rate of assessment for said year payable by each handler in accordance with § 924.41 is fixed at \$1.20 per ton of prunes.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and post-

pone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as the orders require that the rates of assessment for a particular fiscal year shall apply to all assessable peaches, apricots, sweet cherries, and prunes handled from the beginning of such year which began April 1, 1978. To enable the committees to meet fiscal obligations which are now accruing, approval of the expenses and assessment rates are necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of each committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: June 29, 1978.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-18502 Filed 7-3-78; 8:45 am]

[3410-02]

[Cherry Reg. 17, Amdt. 1]

# PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

## Grade, Size, and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment continues through June 30, 1979, the current minimum grade, size, and container requirements on the handling of sweet cherries grown in designated counties in Washington. The amendment takes into consideration the marketing situation facing the Washington sweet cherry industry and is necessary to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATES: July 14, 1978, through June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Cherry regulation 17 was published in the FEDERAL REGISTER on May 22, 1978 (43 FR 21867). On May 31, 1978, a proposal was issued (43 FR 23585) to extend the regulatory provisions

through June 30, 1979. The notice allowed interested persons until June 22, 1978, to submit written comments pertaining to the proposed amendment. No such material was submitted.

The proposal was recommended by the Washington Cherry Marketing Committee, established under the marketing agreement and Order No. 923 (7 CFR Part 923). This marketing agreement and order regulates the handling of sweet cherries grown in designated counties in Washington and is effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is hereby found that the following amendment is in accordance with this marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Shipments of sweet cherries are currently in progress and this amendment should be applicable to all shipments made during the season in order to effectuate the declared policy of the act; (2) the amendment is the same as that specified in the notice to which no exceptions were filed; (3) the regulatory provisions are the same as those currently in effect; and (4) compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

The provisions of § 923.317 Cherry regulation 14 (43 FR 21867) are hereby amended to read as follows:

## § 923.317 Cherry regulation 17.

Order. (a) *Grade and sizes.* During the period July 14, 1978, through June 30, 1979, no handler shall handle, except as otherwise provided in paragraphs (b) and (c) of this section, any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries," unless such cherries meet each of the following applicable requirements:

(1) Washington No. 1 grade except that the following tolerances, by count, of the cherries in the lot shall apply in lieu of the tolerances for defects provided in the Washington State Standards for Grades of Sweet Cherries:

(i) A total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not

more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided*, That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(2) At least 95 percent, by count, of the cherries in the lot shall measure not less than  $\frac{3}{16}$  inch in diameter, except as hereinafter provided in paragraph (b)(2)(ii) of this section and subparagraph (3) of this paragraph.

(3) At least 90 percent, by count, of the cherries in any lot of face-packed containers or any containers of 20 pounds, net weight, or more shall measure not less than  $\frac{3}{16}$  inch in diameter and not more than 5 percent, by count, of such cherries may be less than  $\frac{3}{16}$  inch in diameter.

(b) *Containers.* During the period July 14, 1978, through June 30, 1979, no handler shall handle any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries are in containers which meet each of the following applicable requirements:

(1) The net weight of the cherries in any container having a capacity greater than that of a container with inside dimensions of  $15\frac{1}{2}$  by  $10\frac{1}{2}$  by 4 inches shall not be less than 20 pounds; and all containers of cherries shall contain at least 12 pounds, net weight, of cherries.

(2) Subject to the provisions of subdivisions (i) and (ii) of this subparagraph, shipments of cherries may be handled in such experimental containers as have been approved by the Washington Cherry Marketing Committee:

(i) All shipments handled in such containers shall be under the supervision of the committee; and

(ii) At least 90 percent, by count, of the cherries in any lot of such containers shall measure not less than  $\frac{3}{16}$  inch in diameter, and not more than 5 percent, by count, of such cherries may be less than  $\frac{3}{16}$  inch in diameter.

(c) *Exceptions.* Notwithstanding any other provisions of this section, any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraph (a) and (b) of this section, and of §§ 923.41 and 923.55 of this part:

(1) The shipment consists of cherries sold for home use and not for resale;

(2) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(3) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(d) *Definitions.* When used herein, "Washington No. 1" and "diameter" shall have the same meaning as when used in the Washington State Standards for Grades of Sweet Cherries (Order 1550, effective April 29, 1978, WAC 16-414-050); "face-packed" means that cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container; and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: June 29, 1978, to become effective July 14, 1978.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

(FR Doc. 78-18507 filed 7-3-78; 8:45 am)

### [3510-25]

#### Title 15—Commerce and foreign Trade

### CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

#### PART 371—GENERAL LICENSES

##### Correction of General License Ship Stores

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: On December 30, 1977 (42 FR 65142) regulations relating to general license ship stores were revised to include provisions relating to the servicing of fishing and fishery support vessels. Certain existing provisions relating to commodities authorized for export under General License G-DEST were inadvertently omitted. This document amends the regulations to restore the omitted provisions.

EFFECTIVE DATE: July 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

SUPPLEMENTARY INFORMATION: Accordingly, § 371.9 of the Export Administration Regulations (15 CFR § 371.9) is amended to read as follows:

§ 371.9 General License Ship Stores.

(a) \* \* \*

(2) Equipment and spare parts for permanent use on a vessel may be exported for use on board a vessel of any registry, except a vessel registered in Country Group Q, W, Y, or Z, or owned or controlled by, or under charter or lease to any of these countries or their nationals, when necessary for the proper operation of such vessel. Notwithstanding the above, equipment and spare parts for permanent use on a vessel, when necessary for the proper operation of such vessel, may be exported on board a vessel registered in, owned or controlled by, or under charter or lease to a country in Country Group Q, W or Y, or a national of such country, if the equipment or spare parts are authorized to be exported to a destination in Country Group Q, W, or Y under General License G-DEST. In addition, other equipment and services for necessary repair to fishing and fishery support vessels of QWY countries or Cuba may be exported for use on board such vessels when admitted into the United States under governing international fishery agreements.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

Dated: June 27, 1978.

STANLEY J. MARCUSS,  
Deputy Assistant Secretary  
for Trade Regulation.

(FR Doc. 78-18654 Filed 7-3-78; 8:45 am)

### [6750-01]

#### Title 16—Commercial Practices

### CHAPTER I—FEDERAL TRADE COMMISSION

#### PART 419—GAMES OF CHANCE IN THE FOOD RETAILING AND GASOLINE INDUSTRIES

##### Petitions for an Exemption From the Operations of Hiatus Provision

AGENCY: Federal Trade Commission.

ACTION: Granting of petitions for exemption from regulation.

SUMMARY: Temporary exemption is granted from the operation of paragraph (f) of the trade regulation rule relating to games of chance in the food retailing and gasoline industries. This action is taken in response to petitions for exemption submitted to the Commission from Glendinning Co. of Connecticut, Inc.; TeleCom Produc-

tions, Inc.; Vippro, Inc.; Compulex Programs, Inc.; and Wallace Games, Inc.

DATE: The temporary exemption for marketers and users of supermarket games is effective immediately July 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Chuck Shepherd, Special Assistant to the Director, Bureau of Consumer Protection, Federal Trade Commission, Room 484, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3868.

SUPPLEMENTARY INFORMATION: On August 19, 1969, the Federal Trade Commission published at 34 FR 13302 the trade regulation rule relating to games of chance in the food retailing and gasoline industries. The Commission believes that it is in the public interest to grant a temporary exemption from the operation of paragraph (f) of the trade regulation rule relating to games of chance in the food retailing and gasoline industries to permit all marketers and users of supermarket games to begin new games thirty (30) days after the completion of preceding games. The exemption will remain effective pending Commission review of the trade regulation rule relating to games of chance and pending determination of whether the rule should be amended.

The Commission has previously granted a one-time exemption from the rule to FNK Enterprises, 43 FR 25336 (June 12, 1978). The Commission has subsequently received several other requests for similar exemptions or temporary suspension of § 419.1(f) by competitors of FNK Enterprises, seeking to be placed upon an equal footing. Petitioners include Glendinning Co. of Connecticut, Inc.; TeleCom Productions, Inc.; Vippro, Inc.; Compulex Programs, Inc.; and Wallace Games, Inc. The Commission finds that more than a 30-day "hiatus" period between games is not required to eliminate confusion and deception in the consecutive use of games by marketers of supermarket games or their users, and accordingly, granting of the temporary exemption to all such marketers would be appropriate pending Commission review of paragraph (f) of the trade regulation rule to determine whether it should be modified. The Commission has also determined that it would be impracticable for it to publish notice of proposed rulemaking and to receive comment on the grant of the exemption in accordance with 5 U.S.C. section 553 (b) and (c) because to do so would require the companies involved to sustain the very delay and competitive injury from which they seek relief. Moreover, there is no need to delay the effective date of the exemption. (5 U.S.C. section 553(d).) All requests for exemp-

tion that have been received by the Commission will be available for public inspection in the public reference room, room 130, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580.

By direction of the Commission dated June 28, 1978.

CAROL M. THOMAS,  
Secretary.

[FR Doc. 78-18473 Filed 7-3-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities  
Exchanges

CHAPTER II—SECURITIES AND  
EXCHANGE COMMISSION

[Release Nos. 33-5939; 34-14897; 35-20602;  
39-508; IC-10291; IA-631]

PART 201—RULES OF PRACTICE

Proceedings and Hearings

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules of practice to specify that hearings in regulatory proceedings normally be conducted in Washington, D.C. This amendment will provide the bar and the Commission's administrative law judges with guidance with respect to venue in regulatory proceedings. Previously, there had been no distinction in the rules concerning the typical venue for regulatory proceedings as distinguished from disciplinary proceedings.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION:

Alan Rosenblat, Assistant General Counsel, Office of the General Counsel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-1198.

SUPPLEMENTARY INFORMATION: Recently, the Commission affirmed the grant by an administrative law judge of a request for a change of venue in a proceeding, conducted pursuant to the Investment Company Act of 1940, in which an exemption from the Investment Company Act was being sought.<sup>1</sup> At that time, the Commission noted that its "rules of practice give no specific guidance in such a situation."<sup>2</sup> Moreover, the Commission stated:

The present rules of practice do not distinguish, for purposes of venue, between the different types of cases we have. No line is drawn between regulatory proceedings, on the one hand, and disciplinary proceedings, on the other hand. To the extent that the differences are significant, it appears desirable that such distinctions be made in our rules or practice. This would give our administrative law judges and the bar guidance in the area which they do not now have.<sup>3</sup>

The Commission has determined to amend its rules of practice so as to distinguish between the two types of proceedings and to provide that its regulatory proceedings normally should be conducted in Washington. Such a practice makes the most of the Commission's limited resources by eliminating the loss of staff time in travel and enabling the staff to continue working on other matters while discharging its responsibilities in a particular regulatory proceeding.

Accordingly, the Commission hereby amends 17 CFR 201.6 by revising the first sentence of paragraph (b) to read as follows:

§ 201.6 Notice of proceedings and hearings.

\* \* \*

(b) *Notice of hearing; service of notice.* The time and place for any hearing in a proceeding shall be fixed with due regard for the public interest and the convenience and necessity of the parties, the participants, or their representatives. It is the policy of the Commission that in a proceeding under any provision of the Public Utility Holding Company Act of 1935, the Investment Company Act of 1940 (except section 9(b) thereof), section 206A of the Investment Advisers Act of 1940, section 8 of the Securities Act of 1933, or sections 305 or 307 of the Trust Indenture Act of 1939, the hearing should normally be held in Washington, D.C. \* \* \*

(15 U.S.C. 77u, 77ttt, 78v, 79s, 80a-40, 80b-12).

\* \* \*

The Commission finds that the foregoing action relates solely to rules of agency procedure or practice and, accordingly, that notice and prior publication for comment under the Administrative Procedure Act, 5 U.S.C. 551 et seq., are unnecessary. See 5 U.S.C. 553(b).

By the Commission.

GEORGE A. FITZSIMMONS,  
Secretary.

JUNE 27, 1978.

[FR Doc. 78-18482 Filed 7-3-78; 8:45 am]

<sup>3</sup>Id., 13 SEC Docket at 904, n. 3.

[4810-31]

Title 27—Alcohol, Tobacco Products  
and Firearms

CHAPTER I—BUREAU OF ALCOHOL,  
TOBACCO, AND FIREARMS, DE-  
PARTMENT OF THE TREASURY

[T.D. ATF-51; Correction]

PART 201—DISTILLED SPIRITS PLANTS

PART 252—EXPORTATION OF  
LIQUORS

Implementation of Statutory Changes  
Made by Public Law 95-176; Cor-  
rection

AGENCY: Bureau of Alcohol, Tobacco, and Firearms, Treasury.

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors to a final rule (T.D. ATF-51) which made certain miscellaneous changes implementing Pub. L. 95-176 relating to Distilled Spirits. The final rule was published as FR Doc. 78-15499, at 43 FR 24232-24245 in the edition of June 2, 1978.

EFFECTIVE DATE: June 2, 1978.

FOR FURTHER INFORMATION  
CONTACT:

John A. Linthicum, Specialist, Procedures Branch, Regulations and Procedures Division (Regulatory Enforcement), Bureau of Alcohol, Tobacco, and Firearms, 1200 Pennsylvania Avenue NW., Washington, D.C. 20226, 202-566-7602.

SUPPLEMENTARY INFORMATION:

1. In the first sentence of § 201.393(d), replace the words "this paragraph" with the words "paragraph (c) of this section".

2. In the second sentence of § 201.587(c), replace the word "prepare" with the words "submit to the ATF officer."

3. In § 252.62(b) the words "and deposit in" and "deposit" were unintentionally omitted. Therefore, the third sentence of § 252.62(b) should read: "Distilled spirits and wines withdrawn for exportation, use on vessels or aircraft, or for transfer to and deposit in a foreign-trade zone, or distilled spirits withdrawn for transfer to a customs bonded warehouse shall remain unaccounted for until the evidence of exportation, use, deposit, transfer, or loss in transit has been filed with the regional regulatory administrator."

4. T.D. ATF-51 redesignated §§ 201.584a, 201.585 and 201.586 as §§ 201.585, 201.586 and 201.587, respectively. T.D. ATF-51 also deleted § 201.631a, as obsolete. In preparing the final rule, we neglected to make conforming changes in three sections

<sup>1</sup>The Vanguard Group, Inc., Investment Company Act Release No. 10016 (Nov. 18, 1977), 13 SEC Docket 903 (Dec. 6, 1977).

<sup>2</sup>Id., 13 SEC Docket at 904 (footnote omitted).

## RULES AND REGULATIONS

of Part 201 which refer to the former section numbers of the redesignated sections. Similarly, we did not make a conforming change in a reference to the obsolete § 201.631a.

The following four amendments to part 201, correct these omissions:

§ 201.272 [Amended]

Amend § 201.272 to change a regulatory reference from "§ 201.584a" to "§ 201.585".

§ 201.352 [Amended]

Amend § 201.352 to change a regulatory reference from "§ 201.586" to "§ 201.587".

§ 201.394 [Amended]

Amend § 201.394 to change two regulatory references from "§ 201.585" to "§ 201.586".

§ 201.612 [Amended]

Amend § 201.612 to change a regulatory reference from "§§ 201.631a-201.634" to "§§ 201.633-201.634".

Signed: June 28, 1978.

REX D. DAVIS,  
Director.

[FR Doc. 78-18480 Filed 7-3-78; 8:45 am]

[4510-27]

Title 29—Labor

CHAPTER V—WAGE AND HOUR  
DIVISION, DEPARTMENT OF LABOR

PART 519—EMPLOYMENT OF FULL-  
TIME STUDENTS AT SUBMINIMUM  
WAGES

Correction of Typographical Error

AGENCY: Employment Standards Administration, Labor.

ACTION: Correction of final rule.

SUMMARY: This document corrects an erroneous cross reference due to a typographical error which appeared in a November 1977 amendment regarding employment of full-time students. The amendment was published on November 11, 1977, at 42 FR 58744.

EFFECTIVE DATE: This document is effective June 30, 1978.

FOR FURTHER INFORMATION  
CONTACT:

Arthur H. Korn, Director, Division of Special Minimum Wages, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW., Room C-4316, Washington, D.C. 20210, 202-523-8727.

SUPPLEMENTARY INFORMATION: As originally written, § 519.2 made reference to § 514.4. This document corrects that to read § 519.4.

This document was prepared under the direction and control of Xavier M. Vela, Administrator, Wage and Hour Division.

No notice or public hearing is required as this change merely corrects a typographical error.

As amended, § 519.2(f) of part 519, title 29, code of Federal Regulations reads as follows:

§ 519.2 Definitions

\* \* \* \* \*

(f) *Employer*. Section 519.4 permits an agricultural or retail or service establishment employer to employ not more than six \* \* \*.

(Secs. 11, 14, 52 Stat. 1068; sec. 11, 75 Stat. 74; secs. 501, 602, 80 Stat. 843, 844 (29 U.S.C. 211, 214).)

Signed at Washington, D.C., this 23d day of June 1978.

XAVIER M. VELA,  
Administrator, Wage and Hour  
Division, U.S. Department of  
Labor.

[FR Doc. 78-18344 Filed 7-3-78; 8:45 am]

[8320-01]

Title 38—Pensions, Bonuses, and  
Veterans' Relief

CHAPTER I—VETERANS  
ADMINISTRATION

PART 36—LOAN GUARANTY

Increase in Maximum Permissible In-  
terest Rate on New, Guaranteed,  
Insured, and Direct Loans

AGENCY: Veterans Administration.

ACTION: Final Regulations.

SUMMARY: The VA (Veterans Administration) is increasing the maximum interest rate on guaranteed, insured, and direct loans for new homes and condominiums. The interest rate is also increased on loans for the purchase of a mobile home lot or for site preparation over \$2,500 on a lot previously acquired by a veteran. The maximum interest rate is increased because the former interest rate was not sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. The increase in the interest rate will assure a continuing supply of funds for home mortgages; thereby allowing veterans to purchase a home with the assistance of a no downpayment VA loan.

EFFECTIVE DATE: June 29, 1978.

FOR FURTHER INFORMATION  
CONTACT:

Mr. George D. Moerman, Loan  
Guaranty Service (264), Department

of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-3042.

SUPPLEMENTARY INFORMATION: The Administrator is required to establish a maximum interest rate for loans guaranteed, insured, or made by the Veterans Administration as he finds the mortgage money market demands. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans, the general increase in interest rates charged by lenders on conventional loans, and the results of the biweekly Federal National Mortgage Association auctions—have shown that the mortgage money market has become more restrictive. The maximum rate in effect for VA guaranteed loans has not been sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. To assure a continuing supply of funds for home mortgages through the VA loan guaranty program it has been determined that an increase in the maximum permissible rate is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed and insured mortgages.

At present no change is being made in the maximum interest rate applicable to the mobile home loan program except as to loans to purchase mobile home lots. The lender's return on mobile home unit loans appears competitive with other forms of consumer financing to which this type of loan is comparable, and no change in rate is justified at this time.

However, a loan to purchase a mobile home lot is similar to other real estate loans and for the purpose of assuring a continuing supply of funds and consistency with other real estate programs, the rate on these loans is also being increased.

The increase in the maximum interest rate is accomplished by amending §§ 36.4212(a) (2) and (3), 36.4311(a), and 36.4503(a), Title 38, Code of Federal Regulations. Compliance with the procedure for publication of proposed regulations prior to final adoption is waived because compliance would create an acute shortage of mortgage funds pending the final date which would necessarily be more than 30 days after publication in proposed form.

Approved: June 28, 1978.

MAX CLELAND,  
Administrator.

1. In § 36.4212, paragraph (a) (2) and (3) is revised to read as follows:



§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to June 29, 1978. (38 U.S.C. 1819(f).)

\* \* \*

(2) 9½ percent simple interest per annum for that portion of the loan which finances the purchase of a lot and the cost of necessary site preparation, if any.

(3) 9½ percent simple interest per annum on that portion of a loan which will finance the cost of the site preparation necessary to make a lot owned by the veteran acceptable as the site for the mobile home purchased with the proceeds of the loan except that a rate of not to exceed 12 percent may be charged if the portion of the loan to pay for the cost of such necessary site preparation does not exceed \$2,500.

\* \* \*

2. In § 36.4311, paragraph (a) is revised to read as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 9½ per centum per annum, effective June 29, 1978, the interest rate on any loan guaranteed or insured wholly or in part on or after such date may not exceed 9½ per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1).)

\* \* \*

3. In § 36.4503, paragraph (a) is revised to read as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1976, shall not exceed an amount which bears the same ratio to \$33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to \$17,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Loans made by the Veterans Administration shall bear interest at the rate of 9½ percent per annum. (38 U.S.C. 1811(d)(1).)

\* \* \*

[FR Doc. 78-18474 Filed 7-3-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER R—TOXIC SUBSTANCES CONTROL ACT

[FRL 922-3]

PART 712—REPORTING REQUIREMENTS FOR MANUFACTURERS AND PROCESSORS OF FULLY HALOGENATED CHLOROFLUOROALKANES

PART 762—FULLY HALOGENATED CHLOROFLUOROALKANES

Final Rules; Correction

AGENCY: Environmental Protection Agency.

ACTION: Rule, correction.

SUMMARY: On March 17, 1978, the Environmental Protection Agency (EPA) promulgated a rule (43 FR 11318) which would prohibit almost all of the manufacture, processing, and distribution in commerce of fully halogenated chlorofluoroalkanes for those aerosol propellant uses which are subject to the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 et seq. This correction changes the title of Part 712.

EFFECTIVE DATE: July 5, 1978.

FOR INFORMATION CONTACT:

James D. Silverman, Office of Toxic Substances (TS-794), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0920.

In order to comply with FEDERAL REGISTER format requirements 40 CFR Parts 712, 762 (43 FR 11318, March 17, 1978) is amended as follows:

(1) Delete: "PARTS 712, 762—FULLY HALOGENATED CHLOROFLUOROALKANES" as found on 43 FR 11318.

(2) Add in place of the line deleted: PART 762—FULLY HALOGENATED CHLOROFLUOROALKANES

PART 712—REPORTING REQUIREMENTS FOR MANUFACTURERS AND PROCESSORS OF FULLY HALOGENATED CHLOROFLUOROALKANES

Dated: June 29, 1978.

STEVEN D. JELLINEK,  
Assistant Administrator,  
Office of Toxic Substances.

[FR Doc. 78-18508 Filed 7-3-78; 8:45 am]

[6820-23]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

[FPMR Amdt. D-67]

PART 101-20—MANAGEMENT OF BUILDINGS AND GROUNDS

Revision of Buildings Rules and Regulations

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation provides revised policies and procedures concerning conduct on Federal property. These changes are necessary to clarify responsibilities and eliminate uncertainty. The regulation is intended to make sure that Federal employees understand the buildings rules and regulations.

EFFECTIVE DATE: July 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Randolph Lash, Acting Director, Training and Education Division, Office of Federal Protective Service Management, Public Buildings Service, General Services Administration, Washington, D.C. 20405 (202-566-0340).

SUPPLEMENTARY INFORMATION:

On March 30, 1976, there was published in the FEDERAL REGISTER (41 FR 13378) a notice of proposed rulemaking which involved substantive changes in several buildings rules and regulations. Interested parties were given an opportunity to submit, not later than June 1, 1976, data, views, or objections regarding the proposed revisions. All comments with respect to the proposed revision were given due consideration.

Of the comments received, only one comment recommended an additional revision. This recommendation proposed prohibiting smoking in all public buildings with the exceptions of smoking lounges, specially assigned cafeteria smoking areas, and office spaces where all employees are smokers. To inform the public of this policy, the recommendation also proposed the posting of signs designating public building space as either smoking or nonsmoking areas.

After considering this recommendation, it has been determined that nonsmoking areas are currently used in public building space such as in elevators, sections of cafeterias, and other

appropriate building space. Since conformity with these prohibitory and directory signs is covered by § 101-20.304 of this regulation, an additional prohibitory regulation is not considered necessary.

Therefore, the proposed building rules and regulations are hereby adopted without substantive change and are set forth below.

The table of contents for part 101-20 is amended to revise the following entries:

- Sec.  
 101-20.301 Inspection.  
 101-20.302 Admission to property.  
 101-20.303 Preservation of property.  
 101-20.304 Conformity with signs and directions.  
 101-20.305 Disturbances.  
 101-20.306 Gambling.  
 101-20.307 Alcoholic beverages and narcotics.  
 101-20.308 Soliciting, vending, and debt collection.  
 101-20.309 Distribution of handbills.  
 101-20.310 Photographs for news, advertising, or commercial purposes.  
 101-20.311 Dogs and other animals.  
 101-20.312 Vehicular and pedestrian traffic.  
 101-20.313 Weapons and explosives.  
 101-20.314 Nondiscrimination.  
 101-20.315 Penalties and other laws.

#### Subpart 101-20.3—Conduct on Federal Property

Sections 101-20.301 through 101-20.314 are revised and § 101-20.315 is added as follows:

##### § 101-20.301 Inspection.

Packages, briefcases, and other containers brought into, while on, or being removed from the property are subject to inspection. A full search of a person may accompany an arrest.

##### § 101-20.302 Admission to property.

Property shall be closed to the public during other than normal work hours. The closing of property will not apply to that space and in those instances where the Government has approved the after normal working hour use of building or other property space for commercial, cultural, educational, and recreational activities as authorized by the Cooperative Use Act of 1976 (Pub. L. 94-541). During normal work hours, property shall be closed to the public only when situations require such action to insure the orderly conduct of Government business. The decision to close the property shall be made by the designated official under the Facility Self-Protection Plan after consultation with the buildings manager and the ranking representative of the Federal Protective Service responsible for protection of the facility or the area. This requirement does not preempt the authority of the Regional Director, Federal Protective Service Division, or any other authorized GSA

official to effect a security alert at a facility. Any such action shall be coordinated with the designated official. The designated official is the highest ranking official of the primary occupant agency or an alternate high ranking official designated in advance by agreement of occupant agency officials. When property is closed to the public, admission to such property will be restricted to authorized persons who shall sign the building register and display Government or other identifying credentials when requested to do so by Federal protective officers or other authorized individuals. Entry upon property in violation of any of the above applicable provisions is prohibited.

##### § 101-20.303 Preservation of property.

The improper disposal of rubbish on property; the willful destruction of or damage to property; the theft of property; the creation of any hazard on property to persons or things; the throwing of articles of any kind from or at a building; or the climbing upon statues, roof, or any part of the building, is prohibited.

##### § 101-20.304 Conformity with signs and directions.

Persons in and on property shall at all times comply with official signs of a prohibitory, regulatory, or directory nature and with the direction of Federal protective officers and other authorized individuals.

##### § 101-20.305 Disturbances.

Any unwarranted loitering, disorderly conduct, or other conduct on property which creates loud or unusual noise or a nuisance; which unreasonably obstructs the usual use of entrances, foyers, lobbies, corridors, offices, elevators, stairways, or parking lots; which otherwise impedes or disrupts the performance of official duties by Government employees; or which prevents the general public from obtaining the administrative services provided on the property in a timely manner, is prohibited.

##### § 101-20.306 Gambling.

Participating in games for money or other personal property or the operating of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets, in or on property is prohibited. This prohibition shall not apply to the vending or exchange of chances by licensed blind operators of vending facilities for any lottery set forth in a State law and conducted by an agency of a State as authorized by section 2(a)(5) of the Randolph-Sheppard Act (20 U.S.C. 107, et seq.)

##### § 101-20.307 Alcoholic beverages and narcotics.

Operating a motor vehicle while on the property by a person under the in-

fluence of alcoholic beverages, narcotic drugs, hallucinogens, marihuana, barbiturates, or amphetamines, is prohibited. Entering upon the property, or while on the property, under the influence of or using or possessing any narcotic drug, hallucinogen, marihuana, barbiturate, or amphetamine is prohibited. This prohibition shall not apply in cases where the drug is being used as prescribed for a patient by a physician. Entering upon the property, or being on the property, under the influence of alcoholic beverages is prohibited. The use of alcoholic beverages on property is prohibited except, upon occasions and on property upon which the Administrator of General Services or the Regional Administrator of the General Services Administration has for appropriate official uses granted an exemption in writing.

##### § 101-20.308 Soliciting, vending, and debt collection.

Soliciting alms and contributions, commercial soliciting and vending of all kinds, displaying or distributing commercial advertising, or collecting private debts in or on GSA-controlled property is prohibited. This rule does not apply to (a) national or local drives for funds for welfare, health, or other purposes as authorized by the "Manual on Fund Raising Within the Federal Service" issued by the U.S. Civil Service Commission under Executive Order 10927 of March 18, 1961, and sponsored or approved by the occupant agencies; (b) concessions or personal notices posted by employees on authorized bulletin boards; and (c) solicitation of labor organization membership or dues authorized by occupant agencies under Executive Order 11491 of October 29, 1969, as amended.

##### § 101-20.309 Distribution of handbills.

Posting or affixing materials such as pamphlets, handbills, or flyers on bulletin boards or elsewhere on property is prohibited, except as authorized in § 101-20.308 or when such displays are conducted as part of authorized Government activities. Distribution of materials such as pamphlets, handbills, or flyers is prohibited, except in those areas of the property open to the public such as entrances, lobbies, and open corridors, unless conducted as part of authorized Government activities. The buildings manager or his representative shall be advised in advance of the proposed distribution in public areas, but he shall not exercise control over the content of the material.

##### § 101-20.310 Photographs for news, advertising, or commercial purposes.

Photographs may be taken in space occupied by a tenant agency only with the consent of the occupying agency concerned. Except where security regulations apply or a Federal court order



or rule prohibits it, photographs for news purposes may be taken in entrances, lobbies, foyers, corridors, or auditoriums when used for public meetings. Subject to the foregoing prohibitions, photographs for advertising and commercial purposes may be taken only with written permission of an authorized official of the agency occupying the space where the photographs are to be taken.

**§ 101-20.311 Dogs and other animals.**

Dogs and other animals, except seeing eye dogs or other guide dogs, shall not be brought upon property for other than official purposes.

**§ 101-20.312 Vehicular and pedestrian traffic.**

(a) Drivers of all vehicles entering or while on property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of Federal protective officers or other authorized individuals and all posted traffic signs;

(b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants on property is prohibited; and

(c) Except in emergencies, parking on property is not allowed without a permit. Parking without authority, parking in unauthorized locations or in locations reserved for other persons, or parking contrary to the direction of posted signs is prohibited. Vehicles parked in violation, where warning signs are posted, shall be subject to removal at the owners' risk and expense. This paragraph may be supplemented from time to time with the approval of the Regional Administrator by the issuance and posting of such specific traffic directives as may be required, and when so issued and posted such directives shall have the same force and effect as if made a part hereof. Proof that a motor vehicle was parked in violation of these regulations or directives may be taken as prima facie evidence that the registered owner was responsible for the violation.

**§ 101-20.313 Weapons and explosives.**

No person entering or while on property shall carry or possess firearms, other dangerous or deadly weapons, explosives, or items intended to be used to fabricate an explosive or incendiary device, either openly or concealed, except for official purposes.

**§ 101-20.314 Nondiscrimination.**

There shall be no discrimination by segregation or otherwise against any person or persons because of race, creed, sex, color, or national origin in furnishing or by refusing to furnish to such person or persons the use of any facility of a public nature, including all services, privileges, accommodations, and activities provided thereby on the property.

**§ 101-20.315 Penalties and other laws.**

Whoever shall be found guilty of violating any rule or regulation in this subpart 101-20.3 while on any property under the charge and control of GSA is subject to a fine of not more than \$50 or imprisonment of not more than 30 days, or both. (See 40 U.S.C. 318c.) Nothing in these rules and regulations shall be construed to abrogate any other Federal laws or regulations or any State and local laws and regulations applicable to any area in which the property is situated.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 460(c)).)

Dated: June 20, 1978.

JAY SOLOMON,  
Administrator, General Services.

(FR Doc. 78-18437 Filed 7-3-78; 8:45 am)

[6820-24]

**SUBCHAPTER E—SUPPLY AND PROCUREMENT**

(FPMR Amdt. E-224)

**PART 101-25—GENERAL**

**Subpart 101-25.1—General Policies**

**LABORATORY AND RESEARCH EQUIPMENT MANAGEMENT**

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule establishes additional controls to be observed by Federal agencies in the management of laboratory and research equipment in Federal laboratories. The additional requirements strengthen currently prescribed management practices and are intended to further promote the use of already-owned equipment instead of the procurement of similar new equipment.

EFFECTIVE DATE: July 5, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

Controls for use by Federal agencies in managing laboratory and research equipment in Federal laboratories have been prescribed in the Federal Property Management Regulations (FPMR) since November 1969. These controls, which are intended to promote the maximum use of equipment already owned instead of the purchase of similar new equipment, include the practice of inspection tours, or "walk-throughs," to identify idle and un-

needed equipment available for reassignment and the establishment of equipment pools to foster the sharing of equipment.

Followup surveys conducted to measure efficiency in Federal laboratory equipment utilization led the General Accounting Office (GAO) to conclude that the controls referenced above are not generally being employed in Federal laboratories or are not being employed effectively. In a report to the Congress entitled "More Improvement Needed in Equipment Management Practices in Government Laboratories" (PSAD-76-37), the Comptroller General of the United States recommended specific additional controls for incorporation into the FPMR to strengthen the management practices currently prescribed. In brief, these additional controls included the following:

a. The establishment of teams of top management and scientific personnel to conduct laboratory walk-throughs and report their findings to the agency head;

b. The establishment of equipment pools in laboratories or the submission in writing to the agency head of the reasons why a pool is not needed;

c. The preparation of an annual report for submission to the agency head concerning the use and effectiveness of the pooling of equipment; and

d. The periodic independent review by each agency of walk-through practices and equipment pool operations to determine their effectiveness.

**COORDINATION**

A draft FPMR amendment incorporating the provisions recommended by GAO was submitted to a limited number of interested Federal agencies for review. On the basis of responses received from those agencies, the draft amendment was revised to include, among other things, a general definition of Federal laboratory and to establish laboratory size criteria with regard to application of the requirement to establish, or justify the nonestablishment of, equipment pools. On December 13, 1976, the revised document was published in the *FEDERAL REGISTER* (41 FR 54202) as a Notice of Proposed Rulemaking. Comments received from Federal agencies as the result of the prior coordination as well as those in response to the *FEDERAL REGISTER* notice consistently indicated concern with certain of the proposed provisions.

**DISCUSSION OF MAJOR ISSUES**

(1) *Frequency of inspection tours.* Certain agencies objected to the proposed requirement to conduct annual laboratory inspection tours. The respondents argued that yearly walk-throughs are not necessary at all laboratories and would require an unwar-

ranted expenditure of time on the part of top management and scientific personnel who would be required to perform the inspections. More flexibility was recommended in order to permit agencies to schedule walk-throughs at a frequency determined appropriate for each facility. Accordingly, this provision has been changed to require that laboratory inspection tours be conducted annually, if feasible, but no less than once every 2 years.

(2) *Report of inspection tour findings to agency head.* Several agencies expressed opposition to the proposed provision requiring that a report of findings following each inspection tour be submitted to the agency head. The commenting agencies objected to the imposition of an additional reporting requirement and questioned the practicality of usefulness toward the achievement of desired results of a high-level, formal report concerning operational matters. One agency observed that, if done properly to serve the GAO purpose, the report would require time and effort out of proportion to any resulting improvements. The respondents suggested that less formal documentation submitted to a lower level, directly concerned official would be more useful in securing the necessary remedial action. Therefore, this provision has been modified to require that a report of findings following each scheduled inspection tour be submitted, as determined by the agency head or his designee, to either the head of the laboratory or a higher official having management responsibility for the agency's laboratories.

(3) *Report on equipment pools.* Many agencies took exception to the proposed requirement that an annual report concerning the use and effectiveness of equipment pooling be prepared by each laboratory head and submitted to the agency head. As with the above inspection tour report, the agencies objected to the mandatory task of preparing a report which would further tax the limited personnel and other resources of the laboratories. Furthermore, citing their own current practices, some agencies implied that the proposed report would duplicate other efforts at monitoring and improving pooling operations such as departmental level reviews and field office appraisals. Therefore, to provide more flexibility in this matter and to accommodate any monitoring programs currently in use by agencies, this provision has been modified to require preparation and submission of the specified report unless the agency head or his designee determines that the report is unnecessary.

In consideration of the foregoing, §§ 101-25.109, 101-25.109-1, and 101-25.109-2 are revised as follows:

#### § 101-25.109 Laboratory and research equipment.

(a) This section prescribes controls for use by Federal agencies in managing laboratory and research equipment in Federal laboratories. Agencies may establish such additional controls as are appropriate to increase the use of already-owned equipment instead of procuring similar equipment.

(b) The term "Federal laboratory," as used in this section, means any laboratory or laboratory facility in any Government-owned or -leased building which is equipped and/or used for scientific research, testing, or analysis, except clinical laboratories operating in direct support of Federal health care programs. To the extent practicable, agencies should observe the provisions of this section with regard to commercial laboratories and laboratory facilities which operate under contract with the Government and use Government-furnished equipment.

#### § 101-25.109-1 Identification of idle equipment.

(a) The provisions of this § 101-25.109-1 apply to all Federal laboratories regardless of size.

(b) Inspection tours of Federal laboratories shall be conducted on a scheduled basis, annually, if feasible, but no less than every 2 years, for the purpose of identifying idle and unneeded laboratory and research equipment. Following each tour, a report of findings shall be prepared by the inspection team and, as determined by the agency head or his designee, submitted to the head of the laboratory or to a higher agency official having laboratories management responsibility. Equipment identified by the inspection team as idle or unneeded shall be reassigned as needed within the laboratory, placed in an equipment pool, or declared excess and made available to other agencies in accordance with part 101-43.

(c) Laboratory inspection teams shall be comprised of senior program management, property management, and scientific personnel who are familiar with the plans and programs of the laboratory(ies) and who have a knowledge of laboratory and research equipment utilization. As determined by the agency head or his designee, members of an inspection team shall be appointed by either the head of the laboratory or a higher agency official having laboratories management responsibility.

(d) The agency head or his designee shall ensure compliance by responsible personnel with the requirements of this § 101-25.109-1 and shall require that periodic independent reviews of walk-through procedures employed in Federal laboratories under his control be conducted to determine their effectiveness and to effect modifications as appropriate.

#### § 101-25.109-2 Equipment pools.

(a) The provisions of this § 101-25.109-2 apply to Federal laboratories which occupy an area of 10,000 square feet or more and employ 25 or more technical or scientific personnel.

(b) Equipment pools shall be established in Federal laboratories so that laboratory and research equipment can be shared or allocated on a temporary basis to laboratory activities and individuals whose average use does not warrant the assignment of the equipment on a permanent basis. In determining the number and location of equipment pools, consideration shall be given to economy of operation, mobility of equipment, accessibility to users, frequency of use of the equipment, and impact on research programs. Pooling operations should begin expeditiously, within 120 days, if feasible, following decisions regarding the number and location of pools. If it is determined that an equipment pool would not be practical or economical or for any other reason is not needed at a particular laboratory, a written report supporting that determination shall be submitted to the agency head or his designee. Federal laboratories which do not meet the size and staffing criteria in § 101-25.109-2(a) should also establish equipment pools whenever feasible; however, these facilities need not submit written reports regarding determinations not to establish pools.

(c) Where the establishment of a physical pool would be economically unfeasible due to excessive transportation and handling costs, limited personnel resources, or limited space, pooling may be accomplished by means of equipment listings. Consideration should be given to the establishment of a laboratory advisory committee consisting of technical and management personnel to determine the types of equipment to be shared or pooled and to identify equipment that is no longer required.

(1) Equipment pools may also be used to fill requests for temporary replacements while permanently assigned equipment is being repaired or to provide equipment for new laboratories pending acquisition of permanent equipment.

(2) Although specific pieces of laboratory equipment may not be available for assignment to equipment pools, they may be available for sharing or loan. Information concerning the availability of this equipment can be maintained at a central location such as the equipment pools.

(d) Unless determined unnecessary by the agency head or his designee, each Federal laboratory operating equipment pools shall prepare and submit to the agency head or his designee an annual report concerning the use and effectiveness of equipment pooling.

(c) The agency head or his designee shall ensure compliance by responsible personnel with the provisions of this § 101-25.109-2 and shall require that periodic independent reviews of equipment pool operations in Federal laboratories under his control be conducted to determine their effectiveness and to effect modifications as appropriate.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

Dated: June 16, 1978.

ROBERT T. GRIFFIN,  
*Acting Administrator of  
General Services.*

[FR Doc. 78-18436 Filed 7-3-78; 8:45 am]

[6820-24]

[FFMR Amdt. E-2251]

# **PART 101-26—PROCUREMENT SOURCES AND PROGRAMS**

## **Purchase of Nonperishable Subsistence Items**

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: GSA's management responsibility for nonperishable subsistence (NPS) items was terminated and the responsibility was transferred to the Veterans Administration and the Defense Logistics Agency's Defense Personnel Support Center on January 1, 1978, to reduce overlap and duplication in the supply systems of these agencies. This regulation takes the necessary action to amend the FFMR accordingly.

EFFECTIVE DATE: July 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

The table of contents for Part 101-26 is amended to include the following entry:

Sec.  
101-26.704 Purchase of nonperishable subsistence (NPS) items.

Subpart 101-26.7—Procurement Sources Other Than GSA and the Department of Defense

Section 101-26.704 is added as follows:

§ 101-26.704 Purchase of nonperishable subsistence (NPS) items.

With the exception of condiment packages in Federal supply classes

8940 and 8950, managed by the Defense Logistics Agency's Defense Personnel Support Center, all nonperishable subsistence items in Federal supply group 89, Subsistence Items, are managed by and available from the Veterans Administration (VA). These items are listed in the Subsistence Catalog, which is available from the Director, Supply Service (134A), Veterans Administration, Washington, D.C. 20420.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

Dated: June 22, 1978.

JAY SOLOMON,  
*Administrator of General Services.*

[FR Doc. 78-18438 Filed 7-3-78; 8:45 am]

[4110-88]

# **Title 42—Public Health**

## **CHAPTER III—SAINT ELIZABETHS HOSPITAL, DEPARTMENT OF HEALTH, EDUCATION, AND WEL- FARE**

### **PART 300—AVAILABILITY OF RECORDS AND INFORMATION**

#### **PART 304—VOLUNTARY PATIENTS**

##### **Updating Current Regulations; Miscellaneous Amendments**

AGENCY: Public Health Service, HEW.

ACTION: Rule.

SUMMARY: This document amends the Code of Federal Regulations by deleting certain parts. The amendments are necessary because certain provisions are obsolete, in some cases due to the expiration of statutory authorizations. The effect of the amendments will be to update the current regulations of the Public Health Service.

EFFECTIVE DATE: July 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard F. Cummings, Room 17B-03, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6330.

SUPPLEMENTARY INFORMATION:

### **PART 300—AVAILABILITY OF REC- ORDS AND INFORMATION [RE- MOVED]**

Part 300 has been superseded by DHEW regulations implementing the Privacy Act of 1974. In addition to the Department Privacy Act regulations, the availability of records at Saint Elizabeths Hospital is further controlled by Department regulations concerning confidentiality of alcohol and drug abuse patient records found

at 42 CFR 2.1 to 2.67-1. Therefore, part 300 is removed from title 42 of the Code of Federal Regulations.

#### **PART 304—VOLUNTARY PATIENTS**

Provisions for the admission, treatment and release of voluntary patients at Saint Elizabeths Hospital is presently controlled by the District of Columbia Hospitalization of the Mentally Ill Act of 1964, Codified Act, 21 D.C. Code section 501, et seq. Therefore, part 304 is unnecessary and is removed from title 42 of the Code of Federal Regulations.

NOTE.—The Department of Health, Education, and Welfare, has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11621 and OMB Circular A-167.

Dated: April 20, 1978.

JULIUS B. RICHMOND,  
*Assistant Secretary for Health.*

Approved: June 23, 1978.

JOSEPH A. CALIFANO, Jr.,  
*Secretary.*

[FR Doc. 78-18447 Filed 7-3-78; 8:45 am]

[4110-35]

## **CHAPTER IV—HEALTH CARE FI- NANCING ADMINISTRATION, DE- PARTMENT OF HEALTH, EDUCA- TION, AND WELFARE**

### **PART 460—PROFESSIONAL STANDARDS REVIEW**

#### **Area Designations**

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final regulations.

SUMMARY: These regulations amend the criteria for designating Professional Standards Review Organization (PSRO) areas. The amendment authorizes us to designate Statewide areas in those States where no PSRO areas have yet been designated and where the physicians in the State favor a Statewide area. It is intended to enable the PSRO program to become operational in States where we have not been able to designate acceptable PSRO areas.

DATE: The amendment is effective on July 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Stephen Crane, 301-443-2520.

SUPPLEMENTARY INFORMATION: Professional Standards Review Organizations are independent physician organizations mandated under Title XI, Part B of the Social Security Act

to review the medical necessity, appropriateness, and quality of health care and services funded through the Medicare, Medicaid, and Maternal and Child Health programs.

Specific PSRO areas must be designated before review activities can be undertaken. Current regulations did not permit designation of a single area in large States, except under certain circumstances and after cumbersome procedures (See 42 CFR 460.2a).

On March 3, 1978, we published in the *FEDERAL REGISTER* a notice of proposed rulemaking (43 FR 8813) which would authorize the designation of a single Statewide area (regardless of the size of the State) if, (1) the physicians of that State prefer it; and (2) no areas had been designated as of January 1, 1978.

Seven responses were received during the 45-day comment period, all in support of the amendment. No revisions were recommended and no changes have been made. Since we believe it desirable to initiate PSRO review promptly in any State where it has not yet been possible, we are adopting the amendment to be effective immediately.

Also published today at 43 FR 29016, is a proposal to designate a single Statewide PSRO area for the State of Texas.

42 CFR Part 460 is amended by revising § 460.2 to read as follows:

§ 460.2 Guidelines for designation of areas.

(a) *General requirements.* The Secretary will:

(1) Designate appropriate areas for which Professional Standards Review Organizations may be designated; and

(2) From time to time, review the area designations and revise those that, in his judgment, need revision.

(b) *Specific guidelines.* In designating areas or revising the designations, the Secretary will take into consideration the following guidelines:

(1) Generally, an area should not cross State lines.

(2) In general, an area should not divide a county. However, in instances of large geographic areas or large county populations, it may be necessary and appropriate to divide a county.

(3) Existing boundaries of local medical review organizations and local health planning areas should be considered.

(4) An area should, to the extent possible, coincide with a medical service area and assure broad, diverse representation of all medical specialties. Consideration should be given to the location of existing medical centers and to natural geographic barriers.

(5) An area should generally include a minimum of approximately 300 practicing physicians. While the maximum

can be expected to vary with local circumstances, generally it should not exceed 2,500 practicing physicians.

(6) The designation of an area should take into account the need for effective coordination with Medicare and Medicaid fiscal agents.

(c) *Exception.* The Secretary will designate a single Statewide area, without consideration of the foregoing guidelines, in any State for which:

(1) No areas have been designated as of January 1, 1978, and

(2) The Secretary has obtained suitable evidence that a majority of the physicians in the State favor a Statewide area.

(Sec. 1152 of the Social Security Act (42 U.S.C. 1320c-1); sec. 1102 of the Social Security Act (42 U.S.C. 1302).)

Dated: June 2, 1978.

ROBERT A. DERZON,  
*Administrator, Health Care  
Financing Administration.*

Approved: June 28, 1978.

JOSEPH A. CALIFANO, Jr.,  
*Secretary.*

[FR Doc. 78-18448 Filed 7-3-78; 8:45 am]

[6712-01]

#### Title 47—Telecommunication

[FCC 78-359]

### PART 0—COMMISSION ORGANIZATION

#### Amendment of Part 0 To Reflect a Reorganization of the Office of General Counsel.

AGENCY: Federal Communications  
Commission.

ACTION: Amendment of rules.

SUMMARY: This amendment changes the rules to reflect changes in the organization of the Office of General Counsel. These changes were necessary to provide the General Counsel with greater flexibility in the use of staff personnel and permit more efficient utilization of resources within the office.

EFFECTIVE DATE: July 20, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION  
CONTACT:

Bernard I. Kahn, Office of Executive Director, 632-7513.

SUPPLEMENTARY INFORMATION:

#### ORDER

Adopted: April 21, 1978.

Released: June 27, 1978.

By the Commission:

1. The Commission has before it for

consideration proposed changes in the organization of the Office of General Counsel. Implementation of the proposed changes would require amendments to sections 0.41 and 0.42 of the Commission's rules and regulations and deletion of sections 0.43, 0.44, 0.45, 0.46, 0.47, and 0.48.

2. In order to promote operational efficiency, the Commission is hereby approving the consolidation of the five existing divisions within the Office of General Counsel into two divisions, to be known as the Litigation Division and the Administrative Law and Legislation Division. These changes are necessary to increase the flexibility of the General Counsel in responding to fluctuations in workload and assure greater utilization of staff and available resources. Part 0 of the rules and regulations, which describes the organization of the commission, is being amended to reflect these changes.

3. The amendments adopted herein pertain to agency organization. The prior notice, procedure, and effective date provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, are therefore inapplicable. Authority for the amendments adopted herein is contained in sections 4(i) and 5(b) of the Communications Act of 1934, as amended.

4. In view of the foregoing, it is ordered, effective July 20, 1978, that Part 0 of the rules and regulations is amended as set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,  
*Secretary.*

Part 0 of chapter 1 of title 47 of the Code of Federal Regulations is hereby amended as indicated below.

1. Section 0.41(n) is amended and § 0.41(o) is added to read:

#### § 0.41 Functions of the Office.

The Office of the General Counsel has the following duties and responsibilities:

(n) To provide guidelines for and prepare the bound volumes of the FCC Reports.

(o) To advise the Commission in the preparation and revision of rules and the implementation and administration of the Freedom of Information, Privacy, and Sunshine Acts.

2. Section 0.42 is amended to read:

#### § 0.42 Units in the Office.

The Office of General Counsel is structured into the following units:

(a) Immediate Office of the General Counsel.

- (b) Litigation Division.
- (c) Administrative Law and Legislation Division.
- (d) Industry Equal Employment Opportunity Unit.

§§ 0.43 through 0.48 [Deleted]

3. Sections 0.43, 0.44, 0.45, 0.46, 0.47, and 0.48 are deleted.

[FR Doc. 78-18486 Filed 7-3-78; 8:45 am]

[6712-01]

[Docket No. 21395; RM-2702; FCC 78-4361]

# **PART 91—INDUSTRIAL RADIO SERVICES**

## **PART 93—LAND TRANSPORTATION RADIO SERVICES**

### **Permitting Interservice Geographic Sharing of Certain 450 MHz Band Taxicab Radio Service Channels**

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission originally proposed that 12 pairs of Taxicab Radio Service frequencies be made available for geographic sharing. An earlier proceeding made disposition of eight of those frequencies while comments were sought on the remaining four. This document announces that the Commission has determined to retain the four frequency pairs exclusively in the Taxicab Radio Service to accommodate growth and expansion of existing base/mobile stations in that service.

EFFECTIVE DATE: Nonapplicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Emmett Haines Pritchard, Safety and Special Radio Services Bureau, 202-632-6497.

#### **SECOND REPORT AND ORDER <sup>1</sup>**

Adopted: June 20, 1978.

Released: June 27, 1978.

By the Commission:

1. In a first Report and Order in this proceeding, adopted on March 8, 1978 (FCC 78-190), the Commission finalized certain rule changes which authorize the geographic shared use of eight pairs of Taxicab Radio Service frequencies in the 450-470 MHz band by Forest Products Radio Service licensees in the States of Idaho, Montana, Oregon, and Washington.

2. The Commission had originally proposed that 12 pairs of Taxicab Radio Service frequencies in the 450 MHz band be made available for geographic sharing. However, with the modification of the proposed changes adopted in our first Report and Order, the Commission felt it appropriate to retain four of these frequency pairs exclusively in the Taxicab Radio Service. Before making a final decision on this matter, the Commission released a Further Notice of Proposed Rulemaking on March 21, 1978, seeking additional comments directed specifically to this point.

3. Accordingly, comments were requested on whether the frequency pairs 452.050/457.050, 452.150/457.150, 452.300/457.300, and 452.500/457.500 MHz, should be made available in the Forest Products Radio Service at locations more than 40 miles from the centers of urbanized areas of 200,000 or more population (1970 Decennial Census) in the States of Washington, Oregon, Idaho, and Montana, or whether they should be retained exclusively in the Taxicab Radio Service.

4. Comments were received from Forest Industries Telecommunications (FIT), the original petitioner in this proceeding, and the International Taxicab Association (ITA). Both FIT and ITA, in effect, concurred with the Commission's proposal to retain the four frequency pairs exclusively in the Taxicab Radio Service.

5. The Commission, therefore, has decided not to reallocate the remaining four frequency pairs, but to retain them exclusively in the Taxicab Radio Service. This would accommodate the expected growth and expansion of existing base/mobile stations in that radio service. No change is needed in the rules, since the amendment of section 93.402(c), made effective on April 26, 1978, by the first Report and Order, excepted the four frequency pairs in question from sharing with the Forest Products Radio Service.

6. Accordingly, *it is ordered* pursuant to sections 4(l) and 303 of the Communications Act of 1934, as amended, That this proceeding is terminated.

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,  
Secretary.

[FR Doc. 78-18467 Filed 7-3-78; 8:45 am]

[7035-01]

## **Title 49—Transportation**

### **CHAPTER X—INTERSTATE COMMERCE COMMISSION**

#### **SUBCHAPTER A—GENERAL RULES AND REGULATIONS**

[Amdt No. 1 to Service Order No. 1294]

#### **PART 1033—CAR SERVICE**

### **Indiana Interstate Railway Co., Authorized To Operate Over Tracks Owned by the City of Bicknell, Ind.**

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 1 to Service Order No. 1294).

SUMMARY: Service Order No. 1294 authorizes the Indiana Interstate Railway Co., Inc., to operate over 1.1 miles of track leased from the city of Bicknell, Ind., in order to provide essential railroad service to industries served by that track. Amendment No. 1 extends this order until January 15, 1979.

DATES: Effective June 30, 1978. Expires January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

#### **SUPPLEMENTARY INFORMATION:**

Decided: June 27, 1978.

Upon further consideration of Service Order No. 1294 (43 FR 1092), and good cause appearing therefor:

*It is ordered, § 1033.1294 Indiana Interstate Railway Co., Inc., Authorized to operate over tracks owned by the city of Bicknell, Ind., Service Order No. 1294, is amended by substituting the following paragraph (f) for paragraph (f) thereof:*

*(f) Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., June 30, 1978.

(49 U.S.C. 1 (10-17).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by

<sup>1</sup> See 43 FR 13577, March 31, 1978.

filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Joel E. Burns not participating.

NANCY L. WILSON,  
*Acting Secretary.*

[FR Doc. 78-18487 Filed 7-3-78; 8:45 am]

#### [7035-01]

[Amdt. No. 3 to Revised Service Order No. 1301]

### PART 1033—CAR SERVICE

#### Distribution of Grain Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 3 to Revised Service Order No. 1301).

SUMMARY: There are serious shortages of 40-ft., narrow-door plain boxcars and of covered hoppers on the lines of the Burlington Northern and of the Chicago and North Western. Revised Service Order No. 1301 requires return of narrow-door, 40-ft., plain boxcars and of covered hoppers owned by these two railroads. Loading to stations on the lines of the car owners is permitted. Amendment No. 3 extends Revised Service Order No. 1301 for an additional 5 months.

DATES: Effective 11:59 p.m., June 30, 1978. Expires 11:59 p.m., November 30, 1978.

#### FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

#### SUPPLEMENTARY INFORMATION:

Decided: June 27, 1978.

Upon further consideration of Revised Service Order No. 1301 (43 FR 12326, 14475, and 19048), and good cause appearing therefor:

*It is ordered, § 1033.1301 Distribution of grain cars, Revised Service*

Order No. 1301, is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., June 30, 1978.

(49 U.S.C. 1(10-17).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Joe. E. Burns not participating.

NANCY L. WILSON,  
*Acting Secretary.*

[FR Doc. 78-18488 Filed 7-3-78; 8:45 am]

#### [7035-01]

[Amdt. No. 1 to Revised Service Order No. 1318]

### PART 1033—CAR SERVICE

#### Regulations for Return of Hopper Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 1 to Revised Service Order No. 1318).

SUMMARY: There is a severe shortage of hopper cars on 12 railroads named in Revised Service Order No. 1318. These carriers own large fleets of these cars. Because of traffic flow patterns, substantial numbers of these cars are shipped to points located on the lines of other railroads and must

be returned promptly to the car owners for reloading. Amendment No. 1 extends this order until January 15, 1979.

DATE: Effective 11:59 p.m., June 30, 1978. Expires 11:59 p.m., January 15, 1979.

#### FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-7842.

#### SUPPLEMENTARY INFORMATION:

Decided: June 27, 1978.

Upon further consideration of Revised Service Order No. 1318 (43 FR 17360), and good cause appearing therefor:

*It is ordered, § 1033.1318 Regulations for return of hopper cars, Revised Service Order No. 1318, is amended by substituting the following paragraph (g) for paragraph (g) thereof:*

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 15, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., June 30, 1978.

(49 U.S.C. 1(10-17).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Joel E. Burns not participating.

NANCY L. WILSON,  
*Acting Secretary.*

[FR Doc. 78-18489 Filed 7-3-78; 8:45 am]



# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-15]

## DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

### ELECTRIC SYSTEM REVIEW AND EVALUATION

Revision of REA Bulletin 161-5

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

**SUMMARY:** The Rural Electrification Administration proposes to issue a revision of REA Bulletin 161-5, Electric System Review and Evaluation. This bulletin provides criteria and procedures for REA electric distribution borrowers to use in reviewing the effectiveness of their programs for electric system operation and maintenance and plans for the future. The bulletin also provides for the evaluation of such programs and plans by REA. This proposed revision incorporates a revised REA form 300 and eliminates forms 301, 302, 303 and 304. Effects of the proposed action are to eliminate certain detailed reporting requirements, to add items concerning load studies and planning and to give borrowers increased responsibility for the electric system reviews. On issuance of revised REA bulletin 161-5, appendix A to part 1701 will be modified accordingly.

**DATE:** Public comments must be received by REA no later than August 4, 1978.

**ADDRESS:** Interested persons may obtain copies of revised bulletin 161-5 from Mr. Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-4413. All data, views, or comments should also be directed to Mr. Hand. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Power Supply and Engineering Standards Division, during regular business hours.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Rowland C. Hand, 202-447-4413.

Dated: June 22, 1978.

DONALD L. OLSEN,  
*Acting Assistant Administrator.*

[FR Doc. 78-18418 Filed 7-3-1978; 8:45 am]

[7590-01]

## NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 11, 50, and 70]

[Docket No. RM 50-71]

### AUTHORITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

Schedule of Witnesses and Other Matters

AGENCY: Nuclear Regulatory Commission.

**ACTION:** Hearing Board notice of schedule of witnesses and other matters.

**SUMMARY:** On December 28, 1977, the Commission announced a public hearing on whether to adopt certain proposed rules regarding clearances for access to or control over special nuclear material (42 FR 64703). The oral hearing is scheduled for July 10, 1978, in Washington, D.C. A number of persons have decided to participate in the hearing. This notice announces the schedule for these participants to appear at the hearing.

**DATES:** July 10, 1978, at 9 a.m., e.d.t.

**ADDRESS:** Room 1167, 1717 H Street NW., Washington, D.C. 20555.

**FOR FURTHER INFORMATION CONTACT:**

C. W. Reamer, Office of General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 202-634-1465.

**SUPPLEMENTARY INFORMATION:** Pursuant to notice of hearing and related matters of April 27, 1978, the hearing Board met on June 27, 1978 to consider requests for oral presentations, to consolidate positions and to issue an schedule of witnesses for the July 10-12 hearing in the above captioned matter. In the schedule that follows the Board has assigned hearing times to those witnesses who made timely requests on June 20, 1978. The Board anticipates, however, that witnesses who submitted written testimony without specifically requesting oral presentation time and those who made requests for oral presentations when

this rulemaking was announced on December 28, 1977 but who have not submitted written testimony, may also desire to make oral presentation. Since the Board cannot determine the number, if any, of such additional requests, the following schedule is necessarily tentative.

The Board does not intend to exclude any participant from making an oral presentation by establishing this schedule, and it will endeavor to accommodate those who make late requests. Those participants who desire to make an oral presentation, and who have not been assigned hearing times by this order may proceed in one of two ways. They can appear at the opening of the hearing on July 10, 1978 at 9 a.m. and make their requests known at that time; the Board will rule on such requests promptly. Alternatively, upon receipt of this order participants may telephone C. W. Reamer, Office of the General Counsel, Nuclear Regulatory Commission at 202-634-1465 and request hearing times. Mr. Reamer will confer with the Board and where feasible the Board will set times for oral presentations in advance of the opening of the hearing on July 10 and participants will be promptly informed. As the hearing schedule reflects, a block of additional oral hearing times has been reserved during the afternoon of July 11, 1978.

### HEARING SCHEDULE

July 10-12, 1978, 1717 H Street NW., Washington, D.C., Room 1167

#### JULY 10

9:00-10:00 a.m. Opening statements of Hearing Board; announcement of decisions on objections to questions filed June 30, 1978; disposition of late requests for hearing times.  
10:00-11:00 a.m. Staff testimony.  
11:00-11:15 a.m. Break (if time permits).  
11:15-12:30 p.m. Initial Board questions of staff.  
12:30-2:00 p.m. Lunch.  
2:00-2:20 p.m. Westinghouse testimony.  
2:20-3:00 p.m. Board questions of Westinghouse (and General Electric, if present).  
3:00-3:30 p.m. [3:30-4:00 p.m.] Wisconsin Electric testimony (this will become a panel presentation if other utilities—including KMC and TVA—request hearing times).  
4:00-5:00 p.m. Board questions of Wisconsin Electric (and other utilities including KMC and TVA, if present).

<sup>1</sup>Depending upon number of oral testimony requests, two panels may be convened.

## JULY 11

9:00-9:30 a.m. General Atomic testimony (and other research and university reactor testimony—including National Bureau of Standards—if requested).  
 9:30-10:00 a.m. Board questions of General Atomic (and other research and university reactors—including NBS—if present).  
 10:00-10:30 a.m. Behaviordyne and Ass'n for Advancement of Psychology testimony.  
 10:30-11 a.m. Board questions of Behaviordyne and AAP.  
 11:00-11:15 a.m. Break (if time permits).  
 11:15-11:30 a.m. John O'Brien testimony.  
 11:30-11:45 a.m. Board questions of O'Brien.  
 11:45-12:30 p.m. Further testimony on civil liberties issues, if requested.  
 12:30-2:00 p.m. Lunch.  
 2:00-2:30 p.m. Board questions of those discussing civil liberties issues, as needed.  
 [2:30-5:00 p.m.] Open time for scheduling testimony and questions of late requesters (if more time is needed, it will be assigned on morning of July 12).

## JULY 12

9:00-10:30 a.m. Further Board questions of staff.  
 10:30-11:30 a.m. Propounding of written questions by the Board to those participants who submitted written testimony but who did not appear during the hearing.  
 11:30-12:00 a.m. Resolution of any remaining procedural matters and close of hearing.

For the Hearing Board.

PAUL R. VERKUIL,  
*Chairman.*

[FR Doc. 78-18695 Filed 7-3-78; 8:45 am]

[6705-01]

## FARM CREDIT ADMINISTRATION

[12 CFR Part 615]

## FARM CREDIT INVESTMENT BOND PROGRAM

## Proposed Rule

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration, by its Federal Farm Credit Board, has under consideration proposed amendments to its regulations dealing with the Farm Credit Investment Bond program. An analysis by FCA staff has indicated that the program could be made more effective. The proposed amendments would provide the Farm Credit Banks with an addition to their funding program and better adapt the program to the needs of members of the Banks for Cooperatives System.

DATES: Written comments must be received on or before July 27, 1978.

ADDRESSES: Submit any comments or suggestions in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, Washington, D.C. 20578. Copies of all communications received

will be available for examination by interested persons in the Office of Director, Public Affairs Division, Office of Administration, Farm Credit Administration.

## FOR FURTHER INFORMATION CONTACT:

Jon F. Greeneisen, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza SW., Washington, D.C. 20578, 202-755-2181.

**SUPPLEMENTARY INFORMATION:** Banks of the Farm Credit System are authorized by current regulations to issue Investment Bonds in denominations under \$100,000. These bonds are subject to the limitations prescribed by the Federal Reserve Board's regulation Q on the consumer-type deposit category of denominations under \$100,000. The FCA staff analysis indicated that the investment bond would better meet the requirements of members and provide the Banks for Cooperatives with an addition to their funding program, if offered in denominations of \$100,000 or more. The proposed amendments would authorize the issuance of investment bonds in denominations of \$100,000 or more subject to regulation Q and also would emphasize that all employees of the Farm Credit Administration are ineligible to purchase such bonds. A further revision would clarify that investment bonds may be issued in book-entry as well as definitive form.

Chapter VI of title 12 of the Code of Federal Regulations is proposed to be amended by revising §§ 615.5110 and 615.5120 as follows:

## PART 615—FUNDING AND FISCAL AFFAIRS

## § 615.5110 Authority to issue.

Any Farm Credit bank may issue Farm Credit Investment Bonds directly to those eligible as set forth in § 615.5120(a). The bonds are subject to the limitations contained in the Federal Reserve Board's regulation Q.

## § 615.5120 Purchase eligibility requirement.

(a) *Limitations.* Eligibility to purchase Farm Credit Investment Bonds shall be limited to members and employees of the Farm Credit banks and associations, except any bank officers, directors, and employees who are involved in setting the term or rate, to retired employees who are beneficiaries of a pension or retirement program of the Farm Credit banks or associations, and to retired employees of the Farm Credit Administration. A member of a Farm Credit association or a bank for cooperatives need not be an active borrower to be eligible. A member of any Farm Credit institution may purchase investment bonds from any of the institutions in the dis-

trict which offer the purchase program. Patrons, members, employees, or stockholders of other financing institutions discounting loans with the Federal intermediate credit bank or of any legal entity which is a borrower from any Farm Credit institution as such are ineligible as they are not members of a Farm Credit institution. Stock or participation certificates shall not be sold merely to qualify a party for the purchase of Farm Credit Investment Bonds. For purposes of this section "member" means a stockholder or participation certificate holder who acquired stock or participation certificates to obtain a loan, to purchase stock for investment or to qualify for other services of the association or bank. A person who assumes a loan is not a member unless he becomes a stockholder or participation certificate holder in connection with that loan. Employee means a regular full-time employee of a Farm Credit bank or association. Retired employee means a retiree who is a direct beneficiary of a pension or retirement program of a Farm Credit bank or association or the Farm Credit Administration under Civil Service retirement.

(b) *Form and ownership.* Farm Credit Investment Bonds are registered bonds issued in definitive or book-entry form depending on investor preference. The registration used must express the actual ownership of an interest in the bond and will be considered by the issuing institution as conclusive of such ownership and interest. No designation of an attorney, agent or other representative to request or receive payment on behalf of the owner or co-owner, nor any restriction on the right of the owner or co-owner to receive payment of the bond or interest, except as provided in this section, may be made in the registration or otherwise. Registrations requested in applications for purchase shall be clear, accurate, complete and conform with one of the registration provisions set forth in this section, and include the appropriate taxpayer identifying number. Registrations requested will be inscribed on the face of the bond if in definitive form or on the confirmation of investment if in book-entry form. The following provisions shall apply for registration of Farm Credit Investment Bonds:

(1) In all cases the member's name (whether a natural person, fiduciary, or legal entity) or employee's name must appear as owner of the bond.

(2) A bond may be registered in the name of a fiduciary only if the fiduciary is in fact the member.

(3) A member or employee may not use a form of registration (such as a gift to a minor, irrevocable trust, etc.) which would divest himself of ownership. However, a minor may be named as co-owner or beneficiary.



(4) If a member is a natural person, a second natural person, member or non-member, may be named as co-owner or beneficiary. Co-ownership may not involve a fiduciary or private organization.

(5) In the co-ownership form the connective "or" shall serve the same purpose as "joint tenants with right or survivorship."

(Secs. 5.9, 5.12, 5.18, 85 Stat. 619, 620, 621.)

DONALD E. WILKINSON,  
Governor,

*Farm Credit Administration.*

[FR Doc. 78-18429 Filed 7-3-78; 8:45 am]

[6320-01]

# CIVIL AERONAUTICS BOARD

[14 CFR Chapter II]

[Docket 32219; EDR-347B; PDR-49B]

Supplemental Advance Notice of Proposed Rulemaking

U.S. CORPORATIONS WHICH DO NOT QUALIFY AS A "CITIZEN OF THE UNITED STATES"

JUNE 28, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental advance notice of proposed rulemaking.

SUMMARY: This notice extends until July 31, 1978, the date for filing comments in a rulemaking proceeding involving (1) the correctness of the Board's tentative legal ruling that U.S. corporations are citizens of the United States for the purposes of section 408(a)(4) of the Federal Aviation Act, (2) to determine the extent and nature of the effect of such a ruling, and (3) to formulate possible regulatory solutions through rulemaking procedures for problems which may arise. The extension was requested by counsel for the Government of France.

DATE: Comments by July 31, 1978.

FOR FURTHER INFORMATION CONTACT: Donald H. Horn, Routes Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5206.

SUPPLEMENTAL INFORMATION: By advance notice of proposed rulemaking EDR-347/PDR-49, March 9, 1978 (43 FR 10938, March 16, 1978), the Civil Aeronautics Board gave notice of its tentative legal conclusion that U.S. corporations are citizens of the United States for purposes of section 408(a)(4) of the Federal Aviation Act and requested comments on that tentative legal conclusion, including the nature and extent of the problems which may be created by finalizing that tentative conclusion, and what regulatory action might be taken to

minimize those problems consistent with statutory objectives. Comments were requested to be filed by May 1, 1978. By EDR-347A/PDR 49A (43 FR 18196, April 28, 1978) the comment date was extended until June 30, 1978.

The Board has now received a letter from counsel for the Government of France. They indicate that they have only recently been retained, believe that the proposed rule could have serious international implications, and request an extension of time to enable them to provide the kind of information and comment concerning the foreseeable impact of the rule on the French Government and its various agencies and enterprises which the Board has specifically requested.

Upon consideration of the above, the undersigned finds good cause to grant the request for an extension of the time for filing comments. Accordingly, under authority delegated in 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)), the time for filing comments is extended to July 31, 1978.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

STEPHEN L. BAERCOCK,  
Acting Associate General  
Counsel, Rules Division.

[FR Doc. 78-18479 Filed 7-3-78; 8:45 am]

[6355-01]

# CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1306]

## UNVENTED GAS-FIRED SPACE HEATERS

Extension of Time of Proposed Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of time.

SUMMARY: This notice extends from July 17, 1978 to August 29, 1978, the period in which the Commission must either publish a final ban of unvented gas-fired space heaters or withdraw the rule proposed on February 14, 1978. This extension is necessary to provide time for the Commission to consider new information.

FOR FURTHER INFORMATION CONTACT: George M. Anikis, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6453.

SUPPLEMENTARY INFORMATION: On February 14, 1978 (43 FR 6235), the Commission published a proposal to ban unvented gas-fired space heaters. Based on information discussed in the proposal, the Commission concluded that the hazard of carbon monoxide (CO) poisoning associated with this product presents an unreasonable

risk of injury to the public. The Commission determined from the information available at that time that no feasible standard could adequately protect the public from that unreasonable risk. Therefore, as provided by section 8 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2057), the Commission proposed a rule to declare that unvented gas-fired space heaters are banned hazardous products.

As provided by section 9(a)(2) of the CPSA, the proposal solicited written comments from the public and also provided an opportunity for interested persons to make oral presentations of data, views or arguments on the proposed rule. As provided by section 9, the Commission found and published in the proposal good cause to allow a period longer than 60 days for receiving public comment and evaluation of the comments. Consequently, the proposal provided for a period up until July 17, 1978 during which the Commission would consider whether to publish a final rule or withdraw the proposal to ban, unless the time period were to be further extended for good cause. Over 200 comments were received in response to the banning proposal. In addition, three public meetings were held in different parts of the country to receive the oral presentations of persons interested in the proposed ban.

Among the comments received was information to the effect that several European countries had adopted mandatory standards addressed to the hazard of CO poisoning associated with unvented, gas-fired space heaters. These standards do not generally address the hazard of CO poisoning directly. Rather, they require the use of a component which appears to detect the depletion of oxygen in the living space and stops the flow of gas to the heater before the buildup of CO can become hazardous. To the Commission's knowledge, such a component has not been adopted for production by American manufacturers of unvented gas-fired space heaters.

Analysis of this information on oxygen depletion systems has been performed by the Commission staff with the assistance of the National Bureau of Standards. This analysis required a longer period for evaluation than the period provided in the proposal. Therefore, the Commission believes that an extension of time is necessary for Commission consideration of these materials.

Accordingly, pursuant to section 9(a)(1) of the CPSA, the Commission finds there is good cause and extends to August 29, 1978, the period in which the Commission must either publish a consumer product safety rule declaring that unvented gas-fired space heaters are banned hazardous products or withdraw the rule proposed on Febru-

ary 14, 1978. This period may be further extended for good cause by notice published in the FEDERAL REGISTER.

Dated: June 29, 1978.

SADYE E. DUNN,  
Acting Secretary, Consumer  
Product Safety Commission.

[FR Doc. 78-18516 Filed 7-3-78; 8:45 am]

#### [4310-05]

### DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and  
Enforcement

[30 CFR Parts 730, 735, 781, 820, 822]

### SURFACE COAL MINING AND RECLAMATION OPERATIONS

#### Permanent Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

**ACTION:** Release of draft regulations and supplemental notice of public seminars.

**SUMMARY:** The Office of Surface Mining published in the FEDERAL REGISTER on June 15, 1978 (43 FR 25881), a notice of public seminars, public meetings and availability of draft rules. This public notice announces the availability of draft regulations concerning State designation of lands unsuitable for mining, State permanent program application and approval procedures, coal exploration procedures, State inspection and enforcement, Federal inspection and enforcement, and civil penalties. This notice also supplements the June 15, 1978 notice with information about the availability of the comments on these draft rules and the locations for the public seminars in Kansas City, Mo., and Indianapolis, Ind., which were announced at that time.

**DATES:** The draft regulations were made available to the public beginning Monday, July 3, 1978, in the Washington, D.C. and the five regional offices of the Office of Surface Mining. The public seminar in Indianapolis, Ind., will be held on August 9, 1978, and the seminar in Kansas City, Mo., on August 10, 1978.

#### REGULATIONS AVAILABLE

**ADDRESSES:** Draft regulations will be available at the following Surface Mining offices:

OSM Headquarters, Department of the Interior, Room 6229, 18th and C Streets NW., Washington, D.C.

OSM Region I, First Floor, Thomas Hill Building, 950 Kanawha Boulevard, East, Charleston, W. Va. 25301, 304-342-8125.

OSM Region II, Northshore Building 2, Sixth Floor, 1111 North Shore Drive, Knoxville, Tenn. 37902, 615-588-5396.

OSM Region III, Federal Building and Courthouse, Ohio and Pennsylvania Streets, Indianapolis, Ind. 46205, 317-269-7068.

OSM Region IV, 601 East 12th Street, Room 1768, Kansas City, Mo. 64116, 816-374-5162.

OSM Region V, Old Post Office Downtown, 1632 Stout Street, Denver, Colo. 80202, 303-571-4301.

#### SEMINARS

The Indianapolis seminar will be in the Third Floor Chambers, House of Representatives, State House, 200 W. Washington Street, Indianapolis, Ind. The seminar in Kansas City, Mo., will be held at the Little Theatre of the Kansas City, Mo., Convention Center, 13th and Wyandotte Streets.

#### PUBLIC COMMENTS

Send written public comments on these draft rules to: Room 6229, Department of the Interior, 18th and C Streets NW., Washington, D.C. These comments and a list of public meetings with OSM staff will be available for viewing at this address from 9 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, excluding holidays.

#### FOR FURTHER INFORMATION CONTACT:

Patricia Foulk, Office of Surface Mining, Department of the Interior, Washington, D.C. 20240, 202-343-4719.

**SUPPLEMENTARY INFORMATION:** As noted in the June 15, 1978 FEDERAL REGISTER notice, the Office of Surface Mining is making available pre-proposed rulemaking drafts of the permanent program regulations in order to fulfill the spirit of the Surface Mining Control and Reclamation Act and Executive Order 12044, both of which call for early and meaningful public participation in the development of agency regulations. The draft regulations being made available at this time are not intended to reflect the final position of the Office of Surface Mining or the Department on the content of these regulations. The content of these regulations is based in part upon the Office's review to date of available technical literature and other source material, including the legislative history of the act. Review of this material is not necessarily complete at this time and further examination may suggest alternative provisions to those contained in the present drafts. Likewise, comments elicited by these drafts will be carefully reviewed and may well suggest alternative provisions.

The most useful comments will be those which contain positive suggestions for alternative language for the regulations. References to technical literature, the act, legislative history, and other source material supporting

comments and suggested alternative language are solicited and would be appreciated. Purely negative comments objecting to provisions in these drafts without suggesting alternatives will be of little value in the subsequent review to be undertaken by the Office of Surface Mining.

The June 15, 1978, FEDERAL REGISTER notice cited above announced that those permanent program regulations required by the act and not made available at this time would be made available in draft form to the public on or about July 14, 1978. The Office of Surface Mining now estimates that these drafts will be available during the week of July 17, 1978. Following release of all the drafts of the permanent program regulations, public seminars will be held from August 3 through August 11, 1978, as specified in the June 15, 1978, FEDERAL REGISTER notice. Constructive suggestions and alternatives to these draft regulations submitted during this preliminary public comment period will be carefully evaluated by the Office of Surface Mining prior to publishing proposed rules in the FEDERAL REGISTER for the formal comment period. A public hearing will be held on all the permanent program regulations during that formal public comment period.

The regulations being distributed at this time in draft form may contain provisions which are different from corresponding sections of the initial program regulations in effect at this time. These differences are not intended in any way to affect the validity and finality of the initial program regulations. Public comment on these differences will be helpful in ultimately making final determinations whether provisions in the initial regulatory program merit amendment. Prior to formal amendment of those initial program regulations, the Office of Surface Mining will fully enforce the initial program regulations and expects the State regulatory authorities to do the same.

This notice includes a list of questions related to the draft regulations being made available at this time. Public attention to and comment on these questions would be particularly useful to OSM in ultimately reaching a determination as to alternative regulatory provisions which might be adopted. The absence of questions concerning other issues should not be interpreted to mean that the Office of Surface Mining has reached any final conclusions as to those issues. The specific questions are as follows:

#### PART 730—STATE PROGRAMS

1. What information and data should the States be required to submit with their State program applications?

2. What objective and subjective criteria should the Director of OSM use

to evaluate and decide whether to approve or disapprove a proposed State program?

3. What information and data should the States be required to submit in order to demonstrate that a proposed State program will be fully enforced?

4. What criteria should the Director of OSM use to evaluate whether a State will fully enforce its State program?

**PART 735—STATE DESIGNATION OF AREAS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS**

1. What degree of formality should be required for hearings on petitions?

2. What should be the standard of proof to establish the basis for a designation or termination?

3. Which party, if any, should carry the burden of proof?

4. At what point, if any, after a completed permit application has been received should it be deemed so far along in processing that the receipt of a new petition to designate the area unsuitable will not constitute grounds to deny the permit in spite of § 510(b)(4) of the Surface Mining Act?

**PART 781—COAL EXPLORATION OPERATIONS**

How to define the term "substantially disturbed"? For example, should it be related to a specified minimum acreage disturbed, to the number of holes drilled or to some other measure?

**PART 820—STATE INSPECTION AND ENFORCEMENT ACTIVITIES**

Whether or under what circumstances should a citizen be allowed to accompany State inspectors under an approved State program?

**PART 822—FEDERAL INSPECTION AND ENFORCEMENT**

What types of affirmative obligations to eliminate a violation, condition or practice should a Federal inspector be able to impose on an operator?

Dated: June 30, 1978.

WALTER N. HEINE,  
Director, Office of Surface  
Mining Reclamation and Enforcement.

[FR Doc. 78-18650 Filed 7-3-78; 8:45 am]

[6560-01]

**ENVIRONMENTAL PROTECTION AGENCY**

[40 CFR Part 65]

[FRL 921-4]

**STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS**

Proposed Delayed Compliance Order for the Town of Washburn, Maine

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

**SUMMARY:** EPA proposes to issue an administrative order to the town of Washburn, Maine. The order requires the town to bring air emissions from its open burning dump into compliance with certain regulations contained in the federally approved Maine State Implementation Plan (SIP). Because the town is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by July 1, 1979. Source compliance with the order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

**DATES:** Written comments must be received on or before August 4, 1978, and requests for a public hearing must be received on or before July 20, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 21 days prior notice of the date, time, and place of the hearing has been given in this publication.

**ADDRESSES:** Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region I, Room 2103, John F. Kennedy Building, Boston, Mass. 02203, Attention: Air Compliance Clerk. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Sam Silverman, attorney, 617-223-5600, or Mr. Robert O'Meara, engineer, 617-223-5610, both at EPA,

Region I, Room 2103, JFK Building, Boston, Mass. 02203.

**SUPPLEMENTARY INFORMATION:** The town of Washburn operates an open burning dump. The proposed order addresses emissions from the open burning dump which are subject to § 100.2.2 of the Maine Department of Environmental Protection Air Pollution Control Regulations. The regulation limits the emissions of particulate matter and carbon monoxide, and is part of the federally approved Maine State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979, and the source has consented to its terms.

The proposed order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the act (section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated EPA soon, and will contain the procedures for EPA's issuance, approval, and disapproval of an order under section 113(d) of the act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (Apr. 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: June 9, 1978.

REBECCA W. HAMMER,  
Acting Regional Administrator,  
Region I.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

**PART 65—DELAYED COMPLIANCE ORDERS**

1. By adding § 65.240 to read as follows:

§ 65.240 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the act.

# U.S. ENVIRONMENTAL PROTECTION AGENCY

## REGION I

In the matter of Washburn, Maine, proceedings under section 113 of the Clean Air Act, as amended, 42 U.S.C. 7413. Order No. A-SS-77-560.

This order is issued pursuant to section 113(d)(1) of the Clean Air Act, as amended (the "Act"), 42 U.S.C. 7413(d). This order contains a schedule for compliance, interim requirements, and reporting requirements. Public notice, opportunity for a public hearing, and 30 days notice to the State of Maine have been provided pursuant to section 113(d)(1) of the act.

## FINDINGS

1. Former § 100.2.2 of the Maine Air Pollution Control Regulations ("Regulations") stated, in pertinent part, as follows:

Open burning of waste of any kind shall be prohibited after July 1, 1974, except that municipalities qualifying for an extension under the Solid Waste Management Plan shall cease open burning as a means of solid waste disposal by July 1, 1975.

2. Section 100.2.2 of the regulations is part of the Maine, implementation plan submitted to and approved by EPA pursuant to section 110 of the act. Although Maine has revised § 100.2.2, EPA disapproved this revision. Therefore, the implementation plan remains unchanged and § 100.2.2 of the regulations is still a "requirement of an applicable plan," as that phrase is used in section 113(a)(1) of the act.

3. The town of Washburn, Maine owns and operates an open burning disposal site which receives refuse from the towns of Washburn, Woodland, Perham, and Wade.

4. On October 3, 1977, the Regional Administrator of EPA issued a notice of violation, pursuant to section 113(a)(1) of the act, to the town of Washburn alleging violation of the above-cited regulation. Information received from the town manager of Washburn, in letters dated August 9, and September 9, 1977, discussing the town's open burning of refuse, served as the basis for the issuance of this notice.

5. Representatives of Washburn were afforded an opportunity to confer with EPA concerning the alleged violation, in accordance with section 113(a)(4) of the act. The conference was held on December 14, 1977.

6. Comments made by the town manager of Washburn at the December 1977 conference concerning the town's continued open burning indicate that the violation of § 100.2.2 of the regulations has continued more than 30 days beyond Washburn's receipt of the notice of violation.

## ORDER

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this order is as expeditious as practicable, and that the terms of this order comply with section 113(d) of the act.

Definitions: For the purposes of this order:

1. "Solid waste facility" shall mean any land area or structure or combination of land area and structures, used for storing, salvaging, processing, reducing, or incinerating all solid waste projected to be generated by the town of Washburn. The system shall

satisfy all applicable regulations and procedures prescribed by the Maine Department of Environmental Protection (DEP).

2. "Major system components" shall mean all components required for the proper operation of the solid waste facility. Such components shall include, but are not limited to: land, land disposal equipment, buildings, utilities, roadways, and fencing.

3. "Site location application" shall mean all information required for DEP Bureau of Solid Waste Management review of the proposed solid waste facility. Such information is specified in chapter IV, section 406 and 407 of the DEP Solid Waste Management Regulations (title 38, M.R.S.A. section 1304).

4. "Site preparation" shall mean all necessary physical modifications to the land disposal site in accordance with site engineering and design specifications that have been approved by the DEP.

5. "Preliminary engineering" means such studies of the hydrology, geology, soils, and other characteristics of potential sites for the solid waste facility as are necessary to determine their acceptability under Maine DEP Solid Waste Management Regulations.

6. "Progress report" means a written report outlining, as applicable, schedules for or progress toward: Preliminary engineering, site selection, site approval by the Maine DEP, sit preparation, and purchase and delivery of major system components.

It is hereby ordered: I. That the town of Washburn will comply with the Maine implementation plan regulations in accordance with the following schedule for implementation of plans for a solid waste facility to dispose of the Town's refuse on or before the dates specified:

A. Commence preliminary engineering not later than May 15, 1978.

B. Submit a progress report to the Director of the Enforcement Division not later than August 1, 1978.

C. Submit a written report to the Director concerning the solid waste disposal alternatives chosen for implementation by the Town not later than September 15, 1978.

This report shall describe at a minimum the following items:

1. The solid waste disposal method selected in detail.

2. The proposed location for the solid waste facility and the site preparation needed to convert the site to a solid waste facility.

3. Estimated life of the solid waste facility and total cost per ton for disposal.

D. Submit a site location application to the DEP for approval not later than December 1, 1978.

E. Submit copies of purchase orders or lease agreements for major system components not later than April 1, 1979.

F. Commence site development not later than May 15, 1979.

G. Cease operation of the town's open burning dump in violation of all applicable State and Federal emission limitations and commence operation of a solid waste facility not later than July 1, 1978.

II. That the town of Washburn shall comply with the following interim requirements which are determined to be the best, reasonable and practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in section I, above), and are necessary to avoid an imminent and substantial endangerment to the health of persons and to assure compliance with Maine implementa-

tion plan regulations insofar as the town of Washburn is able to comply during the period this order is in effect.

A. Burning shall be restricted to those times when wind conditions are favorable (considering residents living adjacent to the Woodland Road dump), and in no event shall exceed one day per week.

B. The Woodland Road dump shall be protected by a locked gate and a dump attendant on full time duty.

III. That the town of Washburn is not relieved by this order from compliance with any requirement imposed by the Maine implementation plan, EPA, and/or the courts pursuant to section 303 during any period of imminent and substantial endangerment to the health of persons.

IV. That the town of Washburn shall comply with the following reporting requirements on or before the dates specified below:

A. Not later than 5 days after any date for achievement of an incremental step or final compliance specified in this order, Washburn shall notify EPA in writing of its compliance, or noncompliance and reasons therefore, with the requirement. If delay is anticipated in meeting any requirement of this order, the town shall immediately notify EPA in writing of the anticipated delay and reasons therefore. Notification to EPA of any anticipated delay does not excuse the delay.

B. All submittals and notifications to EPA pursuant to this order shall be made to: Director, Enforcement Division, U.S. Environmental Protection Agency, J. F. K. Federal Building, Room 2103, Boston, Mass. 02203, Attention: Air Compliance Clerk.

V. That while section 113(d)(1)(C) of the Act normally requires emission monitoring in an order, no reasonable system of emission monitoring for the town of Washburn's open burning dump site exists.

VI. Nothing herein shall affect the responsibility of the town of Washburn to comply with State, local, or other Federal regulations.

VII. Washburn is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay a noncompliance penalty under section 120 of the Act. In the event of such failure, the town will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VIII. This order shall be terminated in accordance with section 113(d)(8) of the act if the Administrator determines on the record, after notice and hearing, that an inability to comply with § 100.2.2 of the regulations no longer exists.

IX. Violation of any requirement of this order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to sections 113(a), (b), or (c) of the act, including possible judicial action for an injunction and/or penalties and, in appropriate cases, criminal prosecution.

B. Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of § 100.2.2 of the regulations in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the act.

X. This order is effective July 5, 1978. The town of Washburn, Maine consents to the issuance of the subject order and ac-

knowledges that it is a reasonable means to comply with the applicable regulations

Dated: May 1, 1978.

SHELDON RICHARDSON,  
*Authorized Source Signature.*  
DOUGLAS M. COSTLE,  
*Administrator.*

IFR Doc. 78-18456 Filed 7-3-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

IFRL 921-51

**STATE AND FEDERAL ADMINISTRATIVE  
ORDERS PERMITTING A DELAY IN COMPLIANCE  
WITH STATE IMPLEMENTATION PLAN  
REQUIREMENTS**

Proposed Delayed Compliance Order for the  
City of Presque Isle, Maine

AGENCY: Environmental Protection  
Agency.

ACTION: Proposed rule.

**SUMMARY:** EPA proposes to issue an administrative order to the city of Presque Isle, Maine. The order requires the city to bring air emissions from its conical refuse incinerator into compliance with certain regulations contained in the federally-approved Maine State implementation plan (SIP). Because the city is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by July 1, 1979. Source compliance with the order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

**DATES:** Written comments must be received on or before August 4, 1978, and requests for a public hearing must be received on or before July 20, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 21 days prior notice of the date, time, and place of the hearing has been given in this publication.

**ADDRESSES:** Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region I, Room 2103, John F. Kennedy Federal Building, Boston, Mass. 02203, Attention: Air Compliance Clerk. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

**FOR FURTHER INFORMATION  
CONTACT:**

Mr. Sam Silverman, attorney, 617-223-5600; or Mr. Robert O'Meara, engineer, 617-223-5610, both at EPA, Region I, Room 2103, J. F. K. Building, Boston, Mass. 02203.

**SUPPLEMENTAL INFORMATION:** The city of Presque Isle, Maine operates a municipal refuse disposal facility. The proposed order addresses emissions from the conical refuse incinerator at this facility, which are subject to section 100.4.2 of the Maine Department of Environmental Protection Air Pollution Control Regulations. The regulation limits the emissions of particulate matter and is part of the federally-approved Maine State implementation plan. The order requires final compliance with the regulation by July 1, 1979, and the source has consented to its terms.

The proposed order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the act (section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of an order under section 113(d) of the act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: June 9, 1978.

REBECCA W. HAMMER,  
*Acting Regional Administrator,*  
Region I.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

**PART 65—DELAYED COMPLIANCE ORDERS**

1. By adding § 65.240 to read as follows:

§ 65.240 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the act.

**U.S. ENVIRONMENTAL PROTECTION AGENCY**

**REGION I**

In the matter of Presque Isle, Maine, proceedings under section 113 of the Clean Air Act, as amended 42 U.S.C. § 7413, Order No. A-SS-76-449.

This order is issued pursuant to section 113(d)(1) of the Clean Air Act, as amended (the "Act"), 42 U.S.C. 7413(d). This order contains a schedule for compliance, interim requirements, and reporting requirements. Public notice, opportunity for a public hearing, and 30 days notice to the State of Maine have been provided pursuant to section 113(d)(1) of the act.

**FINDINGS**

1. Section 100.4.2(a) of the Maine Air Pollution Control Regulations ("Regulations") reads in pertinent part:

No person shall emit or cause to be emitted any particulate air contaminants from any incinerator darker than a number 1 on the Ringelmann chart, excluding the emission of water vapor.

2. Section 100.4.2(a) of the regulations is part of the Maine Implementation plan submitted to and approved by EPA pursuant to section 110 of the act. Maine has precluded § 100.4 of the regulations, the Incinerator Particulate Standard, from being applied to any new or existing conical incinerator constructed or operated by a municipality of 25,000 persons or less. However, EPA disapproved this revision to the Maine implementation plan. Therefore, the implementation plan remains unchanged, and § 100.4.2(a) of the regulations is still a "requirement of an applicable plan" as that phrase is used in section 113(a)(1) of the act.

3. The city of Presque Isle, Maine owns and operates a conical incinerator which burns the refuse for the municipalities of Presque Isle, Washburn, Castle Hill, Mapleton, and Chapman.

4. On May 10, 1977, the Regional Administrator of EPA issued a notice of violation, pursuant to section 113(a)(1) of the act, to the city of Presque Isle alleging violation of the above-cited regulation. Observations of particulate emissions from the incinerator in excess of the standard, made on April 5, 1977 by an EPA certified smoke reader, were the basis for the issuance of this notice.

5. Representatives of Presque Isle were afforded an opportunity to confer with EPA concerning the alleged violation, in accordance with section 113(a)(4) of the act. The conference was held on December 14, 1977.

6. On July 22, 1977, a certified smoke reader affiliated with the Maine Department of Environmental Protection (DEP) again observed particulate emissions from the incinerator in excess of the standard in § 100.4.2(a). Based upon this information, EPA finds that the violation of § 100.4.2(a) of the regulations has continued more than thirty days beyond Presque Isle's receipt of the notice of violation.

**ORDER**

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this order is as expeditious as practicable, and that the terms of this order comply with section 113(d) of the act. Definitions: For the purposes of this order:



1. "Solid waste facility" shall mean any land area or structure or combination of land area and structures, used for storing, salvaging, processing, reducing, or incinerating all solid waste projected to be generated by the city of Presque Isle. The system shall satisfy all applicable regulations and procedures prescribed by the DEP.

2. "Major system components" shall mean all components required for the proper operation of the solid waste facility. Such components shall include, but are not limited to: land, land disposal equipment, buildings, utilities, roadways, and fencing.

3. "Site location application" shall mean all information required for DEP Bureau of Solid Waste Management review of the proposed solid waste facility. Such information is specified in chapter IV, section 406 and 407 of the DEP Solid Waste Management Regulations (title 38, M.R.S.A. section 1304).

4. "Site preparation" shall mean all necessary physical modifications to the land disposal site in accordance with site engineering and design specifications that have been approved by the DEP.

5. "Preliminary engineering" means such studies of the hydrology, geology, soils, and other characteristics of potential sites for the solid waste facility as are necessary to determine their acceptability under Maine DEP Solid Waste Management Regulations.

6. "Progress report" means a written report outlining, as applicable, schedules for or progress toward: Preliminary engineering, site selection, site approval by the Maine DEP, site preparation, and purchase and delivery of major system components.

*It is hereby ordered:*

I. That the city of Presque Isle will comply with the Maine implementation plan regulations in accordance with the following schedule for implementation of plans for a solid waste facility to dispose of the city's refuse on or before the dates specified.

A. Commence preliminary engineering not later than May 15, 1978.

B. Submit a progress report to the Director of the Enforcement Division not later than August 1, 1978.

C. Submit a written report to the Director concerning the solid waste disposal alternative chosen for implementation by the city not later than September 15, 1978. This report shall describe at a minimum the following items:

1. The solid waste disposal method selected, in detail.

2. The proposed location for the solid waste facility and the site preparation needed to convert the site to a solid waste facility.

3. Estimated life of the solid waste facility and total cost per ton for disposal.

D. Submit final site engineering plans to the DEP for approval not later than December 1, 1978.

E. Submit copies of purchase orders or lease agreements for major system components not later than April 1, 1979.

F. Commence site development not later than May 15, 1979.

G. Cease operation of the city's conical refuse incinerator in violation of all applicable State and Federal emissions limitations and commence operation of a solid waste facility not later than July 1, 1979.

II. That the city of Presque Isle shall comply with the following interim requirements which are determined to be the best reasonable and practicable interim system of emission reduction, taking into account

the requirement for which compliance is ordered in section I, above, and are necessary to avoid an imminent and substantial endangerment to the health of persons and to assure compliance with §100.4.2(a) of the Regulations insofar as the city is able to comply during the period this order is in effect:

A. During normal incinerator operation:

1. Cleanout doors shall remain closed;  
2. The underfire combustion air system shall remain in operation.

B. Regulate combustion air flow after normal daily operating hours so as to create a "hot bed" for easier startup the following day, when normal operation commences.

C. Ensure that personnel are available at all times while the incinerator is in operation to adjust overfire and underfire combustion air flows to maximize combustion efficiency and minimize emissions.

III. That the city of Presque Isle is not relieved by this order from compliance with any requirements imposed by the applicable State implementation plan, EPA, and/or the courts pursuant to section 303 of the act during any period of imminent and substantial endangerment to the health of persons.

IV. That the city of Presque Isle shall comply with the following reporting requirements on or before the dates specified below:

A. Not later than 5 days after any date for achievement of an incremental step of final compliance specified in this order, Presque Isle shall notify EPA in writing of its compliance, or noncompliance and reasons therefore with the requirement. If delay is anticipated in meeting any requirement of this order, the city shall immediately notify EPA in writing of the anticipated delay and reasons therefore. Notification to EPA of any anticipated delay does not excuse the delay.

B. All submittals and notifications to EPA pursuant to this order shall be made to: Director, Enforcement Division, U.S. Environmental Protection Agency, J. F. K. Federal Building, Room 2103, Boston, Mass. 02203, Attention: Air Compliance Clerk.

V. That while section 113(d)(1)(C) of the act normally requires emission monitoring in an order, no reasonable and economical system of emission monitoring for the city of Presque Isle's incinerator exists because of the relatively short period of time before cessation of operation of the incinerator.

VI. Nothing herein shall affect the responsibility of the city of Presque Isle to comply with State, local, or other Federal regulations.

VII. Presque Isle is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay a noncompliance penalty under section 120 of the act. In the event of such failure, the city will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VIII. This order shall be terminated in accordance with section 113(d)(8) of the act if the Administrator determines on the record, after notice and hearing, that an inability to comply with §100.4.2 of the regulations no longer exists.

IX. Violation of any requirement of this order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to sections 113 (a), (b), or (c) of the act, including possible judicial action for an injunction and/or penalties and, in appropriate cases, criminal prosecution.

B. Revocation of this order, after notice and opportunity for a public hearing, and

subsequent enforcement of §100.4.2(a) of the regulations in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the act.

X. This order is effective July 5, 1978.

The city of Presque Isle, Maine consents to the issuance of the subject order and acknowledges that it is a reasonable means to comply with the applicable regulations.

Dated: May 10, 1978.

DOUGLAS M. COSTLE,  
Administrator.

[FR Doc. 78-18457 Filed 7-3-78; 8:45 am]

#### [4110-35]

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 460]

#### PROFESSIONAL STANDARDS REVIEW

Designation of Professional Standards Review  
Organization (PSRO) Area in Texas

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: We propose to designate Texas as a single PSRO area. On January 9, 1976, a Federal district court set aside the nine PSRO areas previously designated in Texas. An amendment to the area designation criteria, published today at 43 FR 29005, requires the designation of a single statewide PSRO area in any State in which no areas had been designated as of January 1, 1978, if suitable evidence has been obtained to show that a majority of the physicians in the State favor a statewide area. We have obtained suitable evidence of the views of the majority of Texas physicians and propose this rule on that basis. The intent is to make it possible to initiate the PSRO program, already delayed for 5 years, in Texas.

DATES: Consideration will be given to written comments and suggestions received on or before September 5, 1978.

ADDRESSES: Address comments to: Steven A Suard, Health Care Financing Administration, Room 13A19, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20856. In communication, please refer to file code HSQ-52-P. Comments will be available for public inspection beginning approximately two weeks after publication, in room 16A-55 of the Department's offices at 5600 Fishers Lane, Rockville, Md. on Monday through Friday of each week from 8:30 a.m. to 5 p.m., telephone 301-443-3880.

FOR FURTHER INFORMATION,  
CONTACT:

Steven A Suard, telephone 301-443-6477.

**SUPPLEMENTARY INFORMATION:**

On March 18, 1974, we published regulation in the *FEDERAL REGISTER* (39 FR 10204) containing six criteria to be considered by the Secretary in designating PSRO areas (42 CFR 460.2). Based upon these criteria, nine PSRO areas were established in Texas. However, in *Texas Medical Association, et al. v. Weinberger* (U.S.D.C., W.D. of Texas, No. A-74-CA-102), the United States District Court, on January 9, 1976, set aside the nine established PSRO areas and instructed us to redesignate PSRO areas in Texas. Despite considerable efforts, we have not been able to do so in a legally acceptable manner.

Published today at — is a final regulation amending the area designation criteria. That amendment authorizes designation of a single statewide area when two requirements are met: (1) No PSRO areas had been finally designated in the State as of January 1, 1978; and (2) suitable evidence has been obtained that a majority of the physicians in the State favor a statewide area. No PSRO areas have been designated in Texas because of the lawsuit described above. The second requirement had been met by an advisory poll of Texas physicians. The results showed an overwhelming (86 percent) physician preference for a single statewide PSRO designation.

Accordingly, we propose to designate a single statewide PSRO area in Texas.

42 CFR Part 460 is amended by revising § 460.48 to read as follows:

§ 460.48 Texas

The State of Texas is designated as a single Professional Standards Review Organization Area.

(Sec. 1152 of the Social Security Act, 42 U.S.D. 1320c-1; sec. 1102 of the Social Security Act, (42 U.S.C. 1302).)

Dated: June 2, 1978.

ROBERT A DERZON,  
Administrator, Health Care  
Financing Administration.

Approved: June 28, 1978.

JOSEPH A. CALIFANO, Jr.,  
Secretary.

[FR Doc. 78-18449 Filed 7-3-78; 8:45 am]

**[6315-01]**

Community Services Administration  
[45 CFR Part 1061]

[CSA Instruction 6005-2]

**CHARACTER AND SCOPE OF  
SPECIFIC PROGRAMS**

Citizen Participation Grant Program—Fiscal  
Year 1978

AGENCY: Community Services Administration.

ACTION: Amendment to proposed rule.

SUMMARY: On June 16, 1978, the Community Services Administration published in the *FEDERAL REGISTER* at 43 FR 26079 a proposed rule governing the citizen participation grant program—fiscal year 1978. This amendment to the rule changes the timetable (§ 1061.60-10) to provide additional time for applicants to develop and submit their applications. The new receipt date for funding requests is August 15, 1978.

DATE: All comments on the original proposed rule, as amended, received prior to July 17, 1978, will be considered in drafting the final rule.

ADDRESS: Please address all comments to: Ms. Faye Rattner, Chief, Policy Development and Review Division, Community Services Administration, 1200 19th Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION  
CONTACT:

Ms. Faye Rattner, telephone 202-254-5280.

(Sec. 602, 78 Stat. 530, 42 U.S.C. 2942.)

Proposed 45 CFR 1061.60-10 is amended as follows: In line 1 strike "July 7" and insert "August 15". In line 4 strike "July 10-14" and insert "September 1". In line 6 strike "Week of July 17" and insert "Week of September 4".

GRACIELA (GRACE) OLIVAREZ,  
Acting Director.

[FR Doc. 78-18428 Filed 7-3-78; 8:45 am]

**[6712-01]**

**FEDERAL COMMUNICATIONS  
COMMISSION**

[47 CFR Part 73]

[BC Docket No. 78-187; RM-3007]

FM BROADCAST STATION IN OLIVIA, MINN.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a class A FM channel to Olivia, Minn., as a first FM

assignment. Petitioner, Melvin Pulley, states the proposed station could bring a first local aural broadcast service to Olivia and Renville County.

DATES: Comments must be received on or before August 22, 1978, and Reply comments must be received on or before September 11, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION  
CONTACT: Mildred B. Nesterak,  
Broadcast Bureau, 202-632-7792.

**SUPPLEMENTAL INFORMATION:**

Adopted: June 23, 1973.

Released: July 7, 1978.

By the Chief, Broadcast Bureau:

1. *Petitioner, Proposal, Comments:* (a) Petition for rulemaking,<sup>1</sup> filed October 28, 1977, by Melvin Pulley ("petitioner"), proposing the assignment of Channel 269A to Olivia, Minn., as that community's first FM assignment.

(b) The channel could be assigned in conformity with the minimum distance separation requirements.

(c) Petitioner states he will file an application for the channel if assigned. However, on February 6, 1978, a Supplemental Initial Decision was issued in Docket No. 20219 (FCC 78D-5) in a proceeding involving a basic character qualifications issue raised in connection with his application for a new FM station at Philadelphia, Miss. In that proceeding petitioner defaulted, stating he did not intend to proceed. In light of this situation he should clearly establish that he intends to apply for the channel proposed herein, if assigned to Olivia, Minn., and to prosecute such application once filed.<sup>2</sup>

2. *Community Data:*—(a) *Location:* Olivia, seat of Renville County, is located approximately 142 kilometers (88 miles) west of Minneapolis, Minn.

(b) *Population:* Olivia—2,553; Renville County—21,139.<sup>3</sup>

(c) *Local Broadcast Service:* There is no aural broadcast service in Olivia or Renville County.

3. *Economic Considerations:* Petitioner states that Olivia, the largest community in Renville County, serves a prime retail trade area of more than 1,000 square miles with annual retail sales averaging more than \$30,000,000. He notes that present industrial production ranges from food to plastic binders. Petitioner claims that the Olivia Chamber of Commerce and Greater Olivia, a community develop-

<sup>1</sup>Public notice of the petition was given on Dec. 14, 1977, Report No. 1039.

<sup>2</sup>Any character issue arising can better be dealt with in the context of that application rather than here.

<sup>3</sup>Population figures are taken from the 1970 U.S. Census.

ment corporation, are most active in the promotion of new and expanding industries. In support of his proposal, petitioner submitted information with respect to recreation, churches, medical facilities, transportation, and government in the area.

4. In light of the foregoing information and the fact that the proposed FM channel would bring a first aural broadcast service to Olivia and Renville County, the Commission proposes to amend the FM Table of Assignments, section 73.202(b) of the rules, with regard to Olivia, Minn., as follows:

*City and Channel No.*

Olivia, Minn.; Present: —; Proposed: 269A.

5. Authority to institute rulemaking proceedings; showings required; cutoff procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

NOTE.—a showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned—see paragraph 1(c) above.

6. Interested parties may file comments on or before August 22, 1978, and reply comments on or before September 11, 1978.

FEDERAL COMMUNICATIONS  
COMMISSION,  
WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, section 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only re-submits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See §1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial

comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in sections 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-18491 Filed 7-3-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-186; RM-2986]

FM BROADCAST STATION IN ABERDEEN,  
WASH.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a class A FM channel to Aberdeen, Wash. The proposed assignment could provide for a station which could render a second local FM broadcast service to Aberdeen.

DATES: Comments must be received on or before August 22, 1978, and Reply comments must be received on or before September 11, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: June 23, 1978.

Released: July 7, 1978.

By the Chief, Broadcast Bureau:

1. *Petitioner, Proposal and Comments:* (a) Petition for rulemaking<sup>1</sup> filed September 6, 1977, by Quincy Valley Broadcasters, Inc. ("petitioner"), proposing the assignment of FM Channel 257A to Aberdeen, Wash., as its second assignment.

(b) The channel could be assigned to Aberdeen in conformity with the minimum distance separation requirements.

(c) Petitioner states it will promptly make application for the channel, if assigned.

2. *Community Data.*—(a) *Location:* Aberdeen, in Grays Harbor County, is located approximately 129 kilometers (80 miles) southwest of Seattle, Wash., and 177 kilometers (109 miles) northwest of Portland, Oreg.

(b) *Population:* Aberdeen—18,489; Grays Harbor County—59,553.<sup>2</sup>

(c) *Local Broadcast Service:* Aberdeen is presently served locally by two full-time AM stations (KBKW and KXRO). It also has a class C FM station operating on Channel 284 (KDUX-FM).

3. *Economic Considerations:* Petitioner asserts that the Washington Census Board projects an increase for Grays Harbor County to 74,374 by 1985. We are told that the principal products of the Grays Harbor area are pulp, paper, plywood, and lumber, with the working force varying between 22,000 and 24,000, of which one-third is employed in forest products and allied industries. Petitioner states that crab fishing and processing is also a significant source of income, as is the cranberry industry. Petitioner has submitted detailed information with respect to the area's economic activities, school system, churches, civic organizations, and recreation in order to demonstrate the need for an additional FM assignment.

4. *Preclusion Study:* Petitioner's engineering study shows that as a result of the proposed Channel 257A assignment to Aberdeen, preclusion would occur only on the proposed channel, involving a small area which includes the sizable community of Hoquiam. This is not an impediment since Hoquiam has a class A FM station in operation.

5. *Additional Considerations:* The proposed assignment would result in intermixing a class A with a class C channel. The Commission has a policy of avoiding such intermixture in the classes of FM channel assignment, but exceptions have been made when a class C channel is unavailable and the petitioner is willing to apply for the

<sup>1</sup>Public notice of the petition was given on Nov. 7, 1977, Report No. 1088.

<sup>2</sup>Population figures are taken from the 1970 U.S. Census, unless otherwise indicated.



class A channel in spite of the intermixture situation. *Yakima, Washington*, 45 FCC 2d 548, 550 (1973); *Key West, Florida*, 45 FCC 142, 145 (1974). Since no class C channel is available and petitioner is willing to apply for and operate on Channel 257A at Aberdeen, Wash., this assignment could be made.

6. Since Aberdeen, Wash., is located within 420 kilometers (250 miles) of the U.S.-Canada border, concurrence of the Canadian Government must be obtained before the assignment of Channel 257A could be adopted.

7. In view of the above, the Commission proposes to amend the FM Table of Assignments, section 73.202(b) of the Commission's rules, with regard to Aberdeen, Wash., as follows:

*City and Channel No.*

Aberdeen, Wash.; Present: 284; Proposed: 257A, 284.

8. The Commission's authority to institute rulemaking proceedings; showings required; cutoff procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

9. Interested parties may file comments on or before August 22, 1978, and reply comments on or before September 11, 1978.

FEDERAL COMMUNICATIONS  
COMMISSION  
WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, section 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only re-submits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in sections 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-18492 Filed 7-3-78; 2:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE  
AND PLANTS

Proposed Regulations for the Eastern Timber  
Wolf

AGENCY: Fish and Wildlife Service,  
Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes an elaboration of the special regulations concerning the taking of gray wolves in Minnesota which were contained in its earlier final rulemaking that provided for the reclassification of the gray wolf in the United States and Mexico. The proposal is deemed necessary to respond to situations where there have been unusually large numbers of depredations or other wolf/human conflicts. In such cases, if taking of wolves could be allowed without any adverse consequences to the overall wolf population in the area, the proposal would allow the legal taking of wolves without regard to whether the particular wolf or pack taken could be tied to a particular depredation or conflict. It therefore would

allow the Service to deal with unusual circumstances which might otherwise work against the long-term welfare of the wolf.

DATE: Relevant comments on this proposal, received no later than August 31, 1978, will be considered by the Director.

ADDRESSES: Comments, preferably in triplicate, should be sent to Director (OES), Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Keith M. Schreiner, Associate  
Director—Federal Assistance, Fish  
and Wildlife Service, U.S. Department  
of the Interior, Washington,  
D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Prior to April 10, 1978, the gray wolf in Minnesota was listed as an endangered species, pursuant to the Endangered Species Act of 1973 (16 U.S.C. §§ 1531 et seq.). However, in a final rulemaking published in the March 9, 1978, FEDERAL REGISTER (43 FR 9607), the Service removed the gray wolf in Minnesota from the endangered species list and placed it on the threatened species list. Elsewhere in the United States, south of Canada, the gray wolf was placed on the endangered species list.

The prohibitions of 50 CFR 17.31 which apply to threatened species, are essentially the same as those for endangered species, except that "any employee or agent of the Service, the National Marine Fisheries Service, or of a State conservation agency which is operating under a cooperative agreement with the Service or with the National Marine Fisheries Service, in accordance with section 6(e) of the act, who is designated by his agency for such purposes may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs." In accordance with 50 CFR 17.32, permits for threatened wildlife are available for scientific purposes, enhancement of propagation or survival, economic hardship, zoological exhibition, educational purposes, or special purposes consistent with the purposes of the act.

The Service's special regulations concerning depredation control provide that designated employees and agents of the Service and the Minnesota Department of Natural Resources are authorized to "take a gray wolf

without a permit in Minnesota if such action is necessary to remove from zones 2, 3, 4, or 5 as delineated by 50 CFR 17.40(d)(1), a gray wolf committing significant depredations on lawfully present domestic animals, but only if the taking is done in a humane manner." (50 CFR § 17.40(d)(2)(i) (B)(4).)

This provision was adopted because, in the Service's view, sound conservation programs will be significantly hampered if in areas inhabited by wolves, large segments of the public believe that wolves pose a significant threat to human livelihood, and that the responsible authorities will do nothing to help. In saying this, the Service does not accept, or propose to act upon, unsubstantiated fears; and the Service would not, under any circumstances, take actions which would have adverse consequences to the wolf's numbers in any zone or zones within Minnesota. Rather, it believes that if the past and probable future actions of wolves in a particular area cause legitimate public fears, and if wolves in those areas can be managed—by translocation, by placement in zoos, or if no other alternative is available, by destruction—without thereby damaging the overall wolf population in the area, the cause of wolf conservation is well served.

At the time the Service adopted the above-quoted special regulations concerning depredating wolves, the Service believed that the regulations' provisions were broad enough to solve the problems in Minnesota involving conflicts between wolves and human beings. However, subsequent events have suggested that an elaboration of the regulations may be necessary. Specifically, the Service is confronted with a situation in a small area of zone 4 in northern Minnesota, where there has been a highly unusual history of wolf depredation on domestic livestock, where there have been and probably still are many more wolves than the habitat can or should carry, and where it is therefore clear that significant depredations will continue unless the wolves' numbers are reduced.

In such a situation, the Service believes that the sound course is not to wait for the inevitable, but to remove some wolves in an attempt to make their numbers more closely approximate the density which the habitat should support—provided that the overall wolf population in the area will not be thereby adversely affected. This is the philosophy adopted by the wolf recovery plan, which the Service recently approved.

Since the promulgation of its special regulations, the Service has taken the position in two legal actions—*Brzozowski v. Andrus*, Civil No. 5-77-19 (D. Minn., filed Feb. 16, 1977), and *Fund*

*for Animals v. Andrus*, Civil No. 5-78-66 (D. Minn., filed June 12, 1978), that its special regulations presently give it the authority to take such actions. However, doubts on this point have been expressed in a number of quarters, and the Service therefore believes that the public interest will be best served by clarifying the situation.

In the proposal, the Service is not committed to any single course of action with respect to the wolves it proposes to remove. If translocation of some wolves is possible, in a sound, planned program, the attractiveness of that alternative is obvious. However, translocation into other areas of northern Minnesota is clearly not a sound program, in light of the fact (discussed below) that the areas of the State which constitute the best wolf habitat, such as the Superior National Forest, presently contain as many wolves as they can carry.

The Service will pursue the possibility that wolves can be translocated to areas outside Minnesota, but there is little likelihood that it can soon translocate large numbers of wolves to such areas. The process of gaining necessary public acceptance of translocation or reintroduction efforts, and of making appropriate changes in the laws of the recipient States, is demonstrably a slow one, and even when such efforts are complete the numbers of wolves which probably can be moved, in such efforts, will be small.

Difficulties will also impede large scale movements of wolves to zoological institutions or research facilities: Wolves breed relatively well in captivity, so although zoos and researchers do occasionally need wolves, in the long run their demand will be small.

Thus, although the Service will continue to consider the foregoing options, it seems likely that some of the wolves which the Service would take, when dealing with highly unusual overpopulation problems, will be destroyed for want of a viable alternative.

#### SUMMARY OF FACTORS AFFECTING THE SPECIES

As defined in section 3 of the Endangered Species Act, the term "species" includes any subspecies of fish or wildlife or plants and any other group of fish and wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature (16 U.S.C. § 1532(11)). As with the Service's March 9, 1978, final rulemaking, for the purposes of this proposal the gray wolf group in Minnesota is being considered as a "species" separate from the gray wolf group in the other 47 conterminous States and Mexico. The proposed rulemaking does not affect the latter group.

Section 4(a) of the act states that the Secretary of the Interior may de-

termine a "species" to be endangered or threatened because of any of five factors. The factors, and their application to the gray wolf in Minnesota, are discussed below.

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Service's analysis of the gray wolf's population and habitat, throughout the United States and Mexico, in its March 9, 1978, final rulemaking, and in its proposed rulemaking of June 9, 1977 (42 FR 29527), remains valid. In Minnesota, the gray wolf population, although small compared to the gray wolf's original numbers in the lower 48 States, has not itself undergone a significant decline since about 1900, and within the last decade has apparently increased both in overall numbers and in total range.

However, in the context of this rulemaking certain additional analysis is necessary. Within the various zones of northern Minnesota, as defined by the Service's final rulemaking of March 9, 1978, the trends in the wolf's numbers vary. In zone 1, which comprises the northeastern area of the State, and is one of the two identified areas of critical habitat for the species, the wolf's population has apparently been declining slightly in recent years, principally because of a decline in the available numbers of prey species. However, in areas of north-central and northwestern Minnesota, including areas which are peripheral wolf habitat because of their relatively heavy concentrations of human activity, wolf numbers have been increasing. In some areas, this increase has resulted in concentrations of wolves which may now exceed the carrying capacity of the habitat, unless the wolves can prey on domestic livestock. In the recent past, the principal case in point has been a small area of zone 4 where five or more wolf packs have occupied an area near one large cattle farm. In 1976, the farmer lost substantial numbers of cattle despite the fact that trappers employed by the Service repeatedly returned to the farm, ultimately trapping and removing a total of 31 wolves. In 1977, the farmer lost only one calf, but that result was clearly the product of the Service's trapping program: The Service trapped and removed a total of 34 wolves from the area. The Service believes that this history demonstrates that there will occasionally be a situation in Minnesota where unusual concentrations of wolves in a settled area will make large numbers of wolf/human conflicts inevitable, and that the Service's regulations should be flexible enough to deal with those unusual cases.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* As the Service's earlier rule-

making documents state, direct killing by man has been the major factor in the decline of wolves in the United States, and wolves are still regularly shot, illegally, in Minnesota. The Service believes that one principal reason for the extent of this activity is the belief, among otherwise law-abiding persons, that their interests can be protected from wolves in no other way.

3. *Disease or predation.* Not applicable.

4. *The inadequacy of existing regulatory mechanisms.* As the Service has noted above, if its regulations are interpreted as not giving it sufficient latitude to deal with the occasional, highly unusual instances of overconcentrations of wolves, where there has been a great deal of depredation and where there is every indication that it will continue at the same rate, it lacks sufficient flexibility to properly conserve the wolf in northern Minnesota.

5. *Other natural and manmade factors affecting its continued existence.* None in addition to those discussed above.

#### EFFECTS OF THE RULEMAKING

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

#### SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Director (FWS/OES), Fish and Wildlife Service, U.S. Department of

the Interior, Washington, D.C. 20240. All relevant comments received no later than August 22, 1978, will be considered. The Service will attempt to acknowledge receipt of comments, but substantive responses to individual comments may not be provided. Comments received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973, 16 U.S.C. 1531-1543; 87 Stat. 884, and was prepared by Ronald E. Swan, Office of the Solicitor, and John E. Jacobson, Office of the Field Solicitor, Twin Cities.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: June 27, 1978.

LYNN A. GREENWALT,  
Director,  
Fish and Wildlife Service.

Accordingly, part 17, subpart D, title 50 of the Code of Federal Regulations are proposed to be amended as set forth below.

Section 17.40(d)(2)(i)(B) is proposed to be amended to read as follows:

#### § 17.40 Special rules—Mammals.

- • • • •
- (d) \* \* \*
- (2) \* \* \*
- (i) \* \* \*

(B) Any employee or agent of the Service, any other Federal land management agency, or the Minnesota Department of Natural Resources, who is designated by his agency for such pur-

poses, may, when acting in the course of his official duties, take a gray wolf in Minnesota without a permit if such action is necessary to:

(1) Aid a sick, injured, or orphaned specimen; or

(2) Dispose of a dead specimen; or

(3) Salvage a dead specimen which may be useful for scientific study;

(4) Such designated employees or agents of the Service or the Minnesota Department of Natural Resources may also take a gray wolf without a permit in Minnesota if such action is necessary to remove from zone 2, 3, 4, or 5, as delineated in paragraph (d)(1) of this section, a gray wolf committing significant depredations on lawfully present domestic animals, but only if the taking is done in a humane manner;

(5) Such designated employees or agents of the Service or the Minnesota Department of Natural Resources may also take gray wolves without a permit in zones 2, 3, 4, or 5 in Minnesota if the Director, in writing, makes all of the following findings: (i) In the recent past there have been unusually large numbers of wolf/human conflicts in a particular area, (ii) based on the numbers of wolves apparently present in the area, there is a substantial likelihood that the unusually large numbers of such conflicts will continue if some wolves are not removed, and (iii) wolves can be taken in the area without there being any adverse consequences to the wolf's numbers in the particular zone where the conflicts have existed. Taking authorized by this provision must be done in a humane manner, and will occur as close to the particular area affected by the conflicts as will afford the area a reasonable degree of protection; and the taking must cease immediately when the Director is no longer able to make all of the three above-listed findings.

[FR Doc. 78-18459 Filed 7-3-78; 8:45 am]

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Room 790, U.S. Department of Agriculture, Washington, D.C. 20250, phone 202-447-8739.

4. The application must be received at the address shown above not later than Monday, August 14, 1978.

5. All parts of the application must be completed in accordance with the instructions contained in AD-623. Part IV—Program Narrative shall include all requirements under paragraphs 1 through 4 and under paragraphs 5a and 5b. The applicant will be required to certify compliance with applicable provisions of the law and administrative regulations described in part V of AD-623.

6. The term of the project shall not exceed 18 months.

State clearing house approval is not required. However, a copy of the application should be forwarded for review to the State clearing house in accordance with part I of OMB Circular A-95 (41 FR 2052) attachment A, part I, paragraph 8, entitled "Exceptions."

Grants will be administered under the provisions of OMB Circular A-102. Attention should be given to the following areas in the circular:

1. Attachment "A"—Cash depositories.
2. Attachment "G"—Standards for grantee financial management systems.
3. Attachment "O"—Procurement standards.

Applications received will be reviewed on a competitive basis according to the criteria defined in paragraph 2 and the requirements of the program narrative, part IV of AD-623 as defined in paragraph 5. Announcements of grant awards will be made on or about September 15, 1978.

## II. CONTRACTUAL AGREEMENTS

This part is a statement of intent only. Funds will not be awarded under this notice. Funds will be available for cooperative agreements or other contractual arrangements with States or nonprofit institutions, universities, or private industry to develop evaluation methodologies and tools designed to assess the effectiveness of model, or ongoing nutrition education activities, and for other projects relevant to nutrition education. These evaluation tools will assist in determining the most cost effective methods, teaching strategies and mediums for delivering nutrition education and the effects of a nutrition education program.

Bids and technical proposals to perform the projects in accord with specifications established by FNS will be solicited through requests for proposals (RFP). Announcement of these contractual actions will be published in the Commerce Business Daily from time to time. Prospective bidders wishing to submit proposals may request to be put on the bidders list by contacting the contracting officer at the ad-

dress given above in part I, paragraph 3.

The subject grant program is listed in the appendix I of the Catalog of Federal Domestic Assistance, 10.563.

Effective date: June 30, 1978.

Dated: June 28, 1978.

SYDNEY J. BUTLER,  
Deputy Assistant Secretary  
for Food and Consumer Services.  
[FR Doc. 78-18398 Filed 7-3-78; 8:45 am]

## [3410-11]

### Forest Service

#### NATIONAL FOREST MANAGEMENT ACT COMMITTEE OF SCIENTISTS

##### Meeting

The Committee of Scientists will meet on July 14, 1978, 9 a.m.-5 p.m. in Washington, D.C. The meeting will be held in room 3349, South Agriculture Building.

The purpose of this meeting is to finalize the Committee's report to the Secretary of Agriculture on the draft section 6, National Forest Management Act regulations.

This is a "work session" for finalization of the Committee's report. Public discussion is not planned during this session. Written comments may be submitted to the Committee.

The emergency scheduling of the July meeting is due to the timeframe for completion of the Committee's task as specified by the National Forest Management Act of 1976.

Persons who wish to attend, and/or wish to submit written comments should notify Charles R. Hartgraves, Director, Land Management Planning, Forest Service, P.O. Box 2417, Washington, D.C. 20013, area code 202-447-5933.

Dated: June 30, 1978.

CHESTER A. SHIELDS,  
Associate Deputy Chief.  
[FR Doc. 78-18606 Filed 7-3-78; 8:45 am]

## [3410-15]

### Rural Electrification Administration

East Kentucky Power Cooperative, Inc.,  
Winchester, KY.

#### Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider: (a) Providing a guarantee supported by the full faith

and credit of the United States of America for a loan in the approximate amount of \$63,433,000 to East Kentucky Power Cooperative, Inc., of Winchester, Ky., and (b) supplementing such a loan with an insured REA loan at 5-percent interest in the approximate amount of \$1,080,000 to this cooperative. These loan funds will be used to finance the construction of approximately 179 miles of 69 kV transmission line, 63 miles of 138/161 kV transmission line, related facilities, previous loan deficiency, system improvements, and environmental facilities at three generating stations, and headquarters facilities.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Ronald L. Rainson, president and general manager, East Kentucky Power Cooperative, Inc., P.O. Box 707, Winchester, Ky. 40391.

In order to be considered, proposals must be submitted on or before August 4, 1978, to Mr. Rainson. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as the cooperative and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 28th day of June 1978.

DAVID A. HAMIL,  
Administrator, Rural  
Electrification Administration.  
[FR Doc. 78-18493 Filed 7-3-78; 8:45 am]

## [6320-01]

### CIVIL AERONAUTICS BOARD

[Docket 29034; Order 78-6-161]

### ALASKA AIRLINES, INC., SUBSIDY MAIL RATES

#### Order to Show Cause; Erratum

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of June 1978.

The third sentence of paragraph 1 on page 8 should read as follows: "Of course, major changes in the carrier's situation, such as a merger, would require us to reexamine the need."

Dated: June 28, 1978.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-18477 Filed 7-3-78; 8:45 am]

**[6320-01]**

[Docket No. 29034, Order 78-6-161]

**ALASKA AIRLINES, INC.**

**Order To Show Cause Regarding Subsidy Mail Rates**

**Correction**

In FR Doc. 78-18114 appearing at page 28220 in the issue for Thursday, June 29, 1978, the docket number in the heading should have read as shown above.

**[6320-01]**

**CAB—INDUSTRY ADVISORY COMMITTEE ON AVIATION MOBILIZATION**

**Renewal**

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776, U.S.C. App.) the Chairman of the Civil Aeronautics Board has renewed the CAB—Industry Advisory Committee on Aviation Mobilization for an additional period of 2 years ending June 30, 1980.

The committee's charter is unchanged. A copy has been filed with the Library of Congress, pursuant to section 9(c) of the act.

Dated at Washington, D.C., June 19, 1978.

MARVIN BERGSMAN,  
CAB Advisory Committee  
Management Officer.

[FR Doc. 78-18476 Filed 7-3-78; 8:45 am]

**[3510-25]**

**DEPARTMENT OF COMMERCE**

**Industry and Trade Administration**

**NUMERICALLY CONTROLLED MACHINE TOOL TECHNICAL ADVISORY COMMITTEE**

**Closed Meeting**

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Numerically Controlled Machine Tool Technical Advisory Committee will be held on Monday, July 24, 1978, at 9:30 a.m. in Room 3708, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant

Secretary for Administration approved the recharter and extension of the committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to numerically controlled machine tools, including technical data related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The committee will meet only in executive session to discuss matters properly classified under Executive Order 11652, dealing with the United States and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the executive session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the executive session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an executive order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the committee during the executive session of the meeting have been properly classified under the executive order. All committee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete notice of determination to close meetings or portions thereof of the series of meetings of the Numerically Controlled Machine Tool Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 1, 1977 (42 FR 5991).

Dated: June 29, 1978.

RAUER H. MEYER,  
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-18513 Filed 7-3-78; 8:45 am]

**[3510-22]**

**National Oceanic and Atmospheric Administration**

[Docket No. Sub-B-18]

**ELLINGSON FISHING CORP.**

Notice is hereby given that Ellingson Fishing Corp. has applied for permission to transfer the operation of the 85.8' registered length fishing vessel SMARAGD which was constructed with the aid of a fishing vessel construction-differential subsidy pursuant to the Fishing Fleet Improvement Act, 46 U.S.C. 1401-1413 (the "act"). The vessel is presently authorized to operate in the fishery for lobster, scallops, groundfish, flounder, Dungeness crab, king crab, tanner crab, shrimp, and herring.

The application seeks additional authority to operate in the fishery for Pacific ocean perch, Pacific ocean hake, Alaska pollock, Pacific flounders, Pacific rockfishes, Pacific cod, sablefish, capelin, other bottomfish (except halibut), and surf clams in the Northeast Pacific Ocean, Bearing Sea, and Gulf of Alaska.

The act provides in relevant part:

The Secretary in the exercise of his discretion, after notice and a public hearing, may approve the transfer of any vessel constructed with the aid of a subsidy to another fishery . . . where he determines that such transfer would enable such vessel to operate in a newly developed fishery not yet utilized to its capacity by operators of efficient vessels (46 U.S.C. 1409).

Notice is hereby given that the National Oceanic and Atmospheric Administration, National Marine Fisheries Service, has under consideration, approval of the applicant's request as outlined. The principal factors and conditions under consideration in reviewing the applicant's request are described in the following explanatory statement.

*Applicant's Request and Supporting Information.* The primary species to be fished by the SMARAGD, are Pacific ocean perch, Pacific ocean hake, Alaska pollock, Pacific flounders, Pacific cod, sablefish, capelin, and other bottomfish (except halibut). Applicant considers this to be a "newly developed fishery" within the meaning of the act. The United States has practically no previous record of engagement in the "bottomfish" fishery in the designated areas. The fishery has been largely exploited by foreign



fleets. Under the Fishery Conservation and Management Act of 1976 (the "FCMA"), U.S. fishermen and processors have access to the entire optimum yield held in a fishery if they are capable of utilizing it.

A world market has already been developed for bottomfish not utilized by U.S. fishermen, 15 percent of which is imported into the United States. An increased U.S. catch could replace a significant portion of imported products and at the same time encourage a decrease in the U.S. effort on currently overfished species (in conformance with the purpose of the FCMA). Further, the entrance of the SMARAGD into bottomfishing could demonstrate U.S. willingness and capacity to compete with and displace foreign fishing effort within the Fisheries Conservation Zone (the "FCZ"), and its success of operation could result in early commitment of more vessels to the development of the underutilized bottomfishery. The 1977 U.S. catch of bottomfish off Alaska amounted to approximately 1 percent of the optimum yield for bottomfish in the FCZ.

Additionally, the applicant's request for an expanded fishery includes surf clams. The results of a 1977 cooperative Bering Sea clams resource survey assessment conducted by members of the Alaska fishing industry, the Alaska Department of Fish and Game, the Office of Sea Grant, and the National Marine Fisheries Service show a potential surf clam resource on the Northern side of the Aleutian Islands. There are presently no vessels operating for surf clams in this area. Approval of applicant's request for permission to operate the SMARAGD for surf clams in the Bering Sea would enable the vessel to engage in a "newly developed fishery not yet utilized to its capacity by operators of efficient vessels."

There is presently no evidence that the operation by the applicant of the SMARAGD in the fishery for Pacific ocean perch, Pacific ocean hake, Alaska pollock, Pacific flounders, Pacific rockfishes, Pacific cod, sablefish, capelin, other bottomfish (except halibut), and surf clams would cause economic hardship to the operation of U.S. vessels operating in this fishery. Based on the foregoing, the National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is currently reviewing this application in light of the purposes of the Act and is soliciting public comments on the merits of the application as well as the necessity for a public hearing prior to making an administrative determination.

Comments should be submitted in writing to the Assistant Administrator for Fisheries, National Marine Fisheries Service, NOAA, Washington, D.C. 20235 on or before July 20, 1978.

Comments may state the desire for a hearing and indicate a preference for a formal or informal hearing. If no hearing request is indicated, a preference for an informal hearing will be presumed and action on the application will proceed accordingly.

If no comments are filed on or before July 20, 1978, no public hearing will be held and the application will be acted on accordingly.

Dated: June 28, 1978.

WINFRED H. MEIBOHM,  
Associate Director.

[FR Doc. 78-18461 Filed 7-3-78; 8:45 am]

### [3810-70]

#### DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD

Advisory Committee Meeting

The Defense Science Board will meet in closed session on 31 July through 11 August 1978 at the Naval War College, Newport, R.I.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on Scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting scheduled on 31 July-11 August 1978 the Board will examine the substance, interrelationships, and U.S. national security implications of two critical subject areas identified and tasked to the Board by the Secretary of Defense. The subject areas are: Achieving improved NATO effectiveness through armaments collaboration and the strategic nuclear posture. The period of study is anticipated to culminate in the formulation of specific recommendations to be submitted to the Secretary of Defense, via the Under Secretary of Defense for Research and Engineering, for his consideration in determining resource policies, short- and long-range plans, and in shaping appropriate implementing actions as they may affect the U.S. national defense posture.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board meeting concerns matters listed in section 552b(c) of title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: June 29, 1978.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, Washington Headquarters Services.

[FR Doc. 78-18450 Filed 7-3-78; 8:45 am]

### [3128-01]

#### DEPARTMENT OF ENERGY

[DOE/EIS-0018-D]

#### LOS ALAMOS SCIENTIFIC LABORATORY SITE

##### Availability of Draft Environmental Impact Statement

Notice is hereby given that the U.S. Department of Energy (DOE) has issued a draft environmental impact statement, DOE/EIS-0018-D, Los Alamos Scientific Laboratory Site, Los Alamos, N. Mex. The statement was prepared pursuant to implementation of the National Environmental Policy Act of 1969 to support DOE's continued operation of the Los Alamos Scientific Laboratory (LASL) located in Los Alamos and Santa Fe Counties, N. Mex. The Laboratory was established in 1943 for development of nuclear weapons. Activities at LASL have been expanded to include physical, biomedical, environmental and energy research. The statement addresses the potential environmental impacts associated with continuing activities at the LASL site.

The statement assesses the potential cumulative environmental impacts associated with current and continuing activities at the LASL site. This includes the adverse impacts from postulated accidents associated with the activities. Various effluents including radioactive ones are released to the environment. However, a continuing, comprehensive, monitoring program is carried out to assist in the control of hazardous effluents.

Copies of the draft environmental impact statement have been distributed for review and comment to appropriate Federal, New Mexico State and local agencies, and other organizations and individuals who are known to have an interest in the activities at the site.

Copies of the statement are available for public inspection at the DOE public reading rooms located at:

Library, Room 1223, 20 Massachusetts Avenue NW., Washington, D.C.  
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, N. Mex.  
Chicago Operations Office, 9300 South Cass Avenue, Argonne, Ill.  
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.  
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.  
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.  
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn.  
Richland Operations Office, Federal Building, Richland, Wash.  
San Francisco Operations Office, 1333 Broadway, Oakland, Calif.  
Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

Comments and views concerning the draft environmental impact statement

are requested from other interested agencies, organizations and individuals. Single copies of the statement will be furnished for review and comment upon request addressed to W. H. Pennington, Mail Station E-201, U.S. Department of Energy, Washington, D.C. 20545, 301-353-4241. Comments should be sent to the same address.

In accordance with the guidelines of the Council on Environmental Quality, those submitting comments on the draft environmental impact statement should endeavor to make their comments as specific, substantive, and factual as possible without undue attention to matters of form in the impact statement. However, it would assist in the review of the comments if the comments were organized in a manner consistent with the structure of the draft environmental impact statement. Commenting entities may recommend modifications and/or new alternatives that will enhance environmental quality and avoid or minimize adverse environmental impacts.

Copies of comments received on the draft environmental impact statement will be placed in the above referenced locations for inspection and will be considered in the preparation of the final environmental impact statement, if received on or before September 27, 1978.

Dated at Washington, D.C. this 28th day of June 1978.

For the United States Department of Energy.

WILLIAM P. DAVIS,  
Deputy Director  
of Administration.

[FR Doc. 78-18426 Filed 7-3-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

[ERA Docket No. SEPA 78-2]

**CUMBERLAND BASIN PROJECTS  
SOUTHEASTERN POWER ADMINISTRATION**

**Intent to Confirm and Approve Proposed Rate Increase**

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice.

SUMMARY: The Assistant Secretary for Resource Applications (RA) has requested the Administrator of the Economic Regulatory Administration (ERA or the Administrator) to confirm and approve an increase in rates for power and energy generated at the Cumberland Basin projects for the period July 1, 1978 through June 30, 1983. The purpose of this notice is to advise the public that the Administrator intends to act on RA's request and to invite interested parties to submit written comments relevant to the pro-

posed rate increase. An opportunity for an oral presentation will be afforded upon request.

DATES: Written comments are due on or before August 8, 1978. requests for an oral presentation are due July 13, 1978. If a public hearing is requested it will be held on July 21, 1978. Speakers may submit written copies of their oral presentation at the hearing.

ADDRESSES: Requests for an oral presentation and/or ten copies of written comments shall be submitted to: Office of Public Hearing Management, Box UJ, Department of Energy, 2000 M Street NW., Room 2313, Washington, D.C. 20461. The public hearing, if held, will be in: Room 2105, Department of Energy, 2000 M Street NW., Washington, D.C. 20461.

**FOR FURTHER INFORMATION CONTACT:**

Jerry Nicholas, Office of Utility Systems, Economic Regulatory Administration, 1111 20th Street NW., Room 527, Washington, D.C. 20461, phone 202-254-8470.

Richard W. Manning, Office of the General Counsel, 12th and Pennsylvania Avenue NW., Room 6146, Washington, D.C. 20461, phone 202-566-9653.

SUPPLEMENTARY INFORMATION: Pursuant to section 301(b) of the Department of Energy Organization Act, 42 U.S.C. § 7101 et seq., the function to confirm and approve power rates for the Southeastern Power Administration (SEPA) was transferred to the Secretary of Energy. By Delegation Order No. 0204-4, effective October 1, 1977, the Secretary of Energy delegated his confirmation and approval authority to the Administrator of the Economic Regulatory Administration. The Administrator has delegated his authority to the Assistant Administrator for Utility Systems, Economic Regulatory Administration.

SEPA has entered into contracts for the sale of capacity and energy from eight hydroelectric projects, collectively known as the Cumberland Basin projects, (Cumberland projects) to the Tennessee Valley Authority (TVA) and four cooperatives: Big Rivers Electric Corp.; Indiana Statewide Rural Electric Cooperative, Inc.; Hoosier Energy Division; Southern Illinois Power Cooperative; and East Kentucky Power Cooperative (the Cooperatives). The contracts provide that the rates may be adjusted at 5-year intervals. The current rates were approved and confirmed by the Federal Power Commission (now the Federal Energy Regulatory Commission) by order issued June 29, 1973, for the period July 1, 1973 through June 30, 1978. The contract between SEPA and TVA provides that the total net capacity and energy output of the electric gener-

ating units of the Cumberland projects which is not required in connection with the operation of such projects may be purchased by TVA, except that up to 175,000 kilowatts of peaking capacity and up to 100,000 kilowatts of standby capacity with accompanying energy may be retained by SEPA for sale to the Cooperatives.

RA has submitted to ERA proposed rate increases for power generated at the Cumberland Projects for the period July 1, 1978 through June 30, 1983. The rates contained in proposed Wholesale Power Rate Schedule CR-1-D (supersedes Wholesale Power Rate Schedule CR-1-C) will increase TVA's annual payment to SEPA by an average of \$2.3 million. The rates contained in proposed Wholesale Power Rate Schedule CR-2-D (supersedes Wholesale Power Rate Schedule CR-2-C) will result in an average increase in revenues from the Cooperatives of approximately \$202,000 annually. The new rate schedules provide for an average annual revenue increase of \$2,538,000 during the next 5 years, which is equivalent to 15.8 percent.

In support of proposed Wholesale Power Rate Schedules CR-1-D and CR-2-D, SEPA submitted a repayment study, dated March 1978, which states that the proposed rates will produce revenues sufficient to repay the Federal investment, including capital additions, major replacements, and interest during construction, together with annual expenses for operation, maintenance, marketing and interest. Interested persons who wish to inspect the proposed rate schedules or the repayment study should contact Jerry Nicholas at the address shown above.

Comment Procedures: Interested persons are invited to submit comments with respect to the subject matter set forth in this Notice to: Public Hearing Management, Box UJ, Room 2313, Department of Energy, 2000 M Street NW., Washington, D.C. 20461. Such written comments may be mailed or hand delivered and should be received by 4:30 p.m., e.d.t., on August 8, 1978.

Any person who has an interest in this matter or is a representative of a group or class of persons that has an interest in it may make a written request for an opportunity to make an oral presentation at a public hearing. Such a request can be mailed or hand delivered to: Public Hearing Management, Box UJ, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461 and must be received before 4:30 p.m., e.d.t., on July 13, 1978.

The request shall state the name of the person making the request, identify the interest represented and if appropriate state why he or she is a proper representative of a group or class of persons that has an interest,



give a concise summary of the proposed oral presentation, and give a telephone number where the person may be contacted.

DOE reserves the right to select the persons to be heard, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited based on the number of persons requesting to be heard.

The public hearing, if any, will not be adjudicative in nature. A DOE official will be designated to preside at the hearing, if one is held. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding official.

The hearing, if held, will begin at 9:30 a.m., e.d.t., July 21, 1978, in room 2105, Department of Energy, 2000 M Street NW., Washington, D.C.

Public comments, if any, and the hearing record, if any will be available for inspection at the DOE Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m., and 4:30 p.m., Monday through Friday.

Issued in Washington, D.C., on June 28, 1978.

CHARLES A. FALCONE,  
*Acting Assistant Administrator  
for Utility Systems, Economic  
Regulatory Administration,  
Department of Energy.*

[FR Doc. 78-18425 Filed 7-3-78; 8:45 am]

[3128-01]

#### CITY OF RENSSELAER, IND.

Issuance of Order Denying Petition Filed Pursuant to Section 202(c) of the Federal Power Act

Notice is hereby given that the Assistant Administrator for Utility Systems, Economic Regulatory Administration has issued the order published below denying a petition filed by the city of Rensselaer, Ind., pursuant to section 202(c) of the Federal Power Act. Notification of the filing of this petition appeared in 43 FR 24570 (June 6, 1978).

ECONOMIC REGULATORY ADMINISTRATION  
DEPARTMENT OF ENERGY

IN THE MATTER OF THE CITY OF RENSSELAER,  
INDIANA, DOCKET NO. EC 78-5

ORDER DENYING PETITION SEEKING RELIEF  
UNDER SECTION 202(C) OF THE FEDERAL  
POWER ACT

Pursuant to the Department of Energy Organization Act (the act), 42 U.S.C. 7101, et seq., the authority to order the temporary connection of facilities and transfer of

electricity under section 202(c) of the Federal Power Act, 16 U.S.C. 824a(c) and pertinent regulations was transferred to the Department of Energy.

The Secretary of Energy has delegated his authority under section 202(c) of the Federal Power Act to the Administrator of the Economic Regulatory Administration (Delegation Order 0204-4, October 1, 1977, 42 FR 60725-27 (November 29, 1977)). The Administrator of the Economic Regulatory Administration has further delegated his authorities under section 202(c) to the Assistant Administrator for Utility Systems. Pursuant to section 705 of the act, the regulations published at 18 CFR 32.60-32.62 which implement section 202(c) of the Federal Power Act remain in effect until they are amended or otherwise superseded.

Pursuant to the aforementioned authorities, the Assistant Administrator for Utility Systems, Economic Regulatory Administration (ERA) issues this Order denying the request of the city of Rensselaer (city) for a temporary connection of the city's electrical system to the Northern Indiana Public Service Co.'s (NIPSCO) system. This action is taken in response to the city's petition filed with ERA on May 22, 1978 requesting the connection pursuant to section 202(c) of the Federal Power Act.

#### BACKGROUND

In its petition, the city states that it faces a potential emergency situation during the 1978 summer load season unless it can obtain an immediate emergency connection with NIPSCO. The city states that it should be allowed to isolate 2,500 kW of load to be served from the NIPSCO system for the entire summer. The city would then isolate, if necessary, an additional 2,500 kW of load to prevent loss of service to its customers. It further states that the emergency connection is necessary to assure that the city will not be blacked out if the city's largest generating unit should fall during a peak period.

On June 8, 1978, NIPSCO filed an answer to the city's petition asking that ERA deny the relief requested by the city on the grounds that an emergency does not now exist. In the alternative, NIPSCO requests that if ERA determines that an emergency does exist and orders a temporary connection that such order not be effective beyond September 30, 1978. NIPSCO further contends that if a connection is ordered all costs associated with implementing the order should be borne by the city.

#### DISCUSSION

The city of Rensselaer is a municipality in Indiana which owns and operates electric generation and distribution facilities for the sale of electric energy. The city's electric system is the last isolated electric utility in Indiana and is totally dependent upon the reliability and capacity of its own generating units to furnish its electrical needs. The city's power system has a maximum summer generating capacity of approximately 17,200 kW. If an outage of the largest generating unit occurs, the maximum available generating capacity will be about 11,700 kW. The city anticipates that its peak 1978 summer demand will be approximately 12,500 kW. The city asserts that should its largest generating unit fail during the summer peak period, the city's electric system will not be able to meet its load demand. Further, the city reports that this largest generating unit has experienced a number of outages in the recent past.

NIPSCO owns a 69 kV transmission line (No. 6918) which comes within 3,300 feet of the city's distribution facilities. The city states that it is prepared to build, own, operate and maintain all facilities necessary for the emergency connection with NIPSCO including the substation, transformers and switching equipment, as well as the 3,300 feet of new 69 kV line to be built connecting the existing city facilities to NIPSCO's existing 69 kV transmission line.

NIPSCO states that the city's potential capacity shortage does not constitute an emergency since the city should have anticipated the shortage and taken steps to correct the situation. It thus argues that this potential shortage is entirely self-created and is not an emergency within the meaning of section 202(c) of the Federal Power Act.

ERA views Section 202(c) as intended to provide a response to an unavoidable emergency situation. ERA does not consider granting emergency relief in lieu of a utility's taking necessary and prudent measures to plan and operate its system in a reliable fashion to be consistent with the statutory purpose.

The city has failed to make a showing that without additional power or energy it will be unable to maintain electric service to its customers after instituting an existing load curtailment plan designed to balance capacity and load requirements. Assuming that its largest generating unit (the No. 12 unit) does not break down, the maximum dependable capacity of the city's power system is approximately 11,700 kW. The city estimates that its peak summer demand will be about 12,500 kW. The city's load curtailment plan indicates: (1) That the city can reduce its load by about 585 kW within 5 minutes by implementing a 5 percent voltage reduction; (2) an additional 1,000 kW of load relief can be obtained within 2 to 4 hours through public appeals for conservation; and (3) an additional 1,200 kW of load reduction is available within 4 hours by asking industrial customers to reduce their loads or temporarily close their plants. Thus, through responsible utility system operation, the city should be able to prevent an emergency situation from developing by taking appropriate measures to reduce its load whenever the load demand approaches the capability of the system.

In addition, ERA has determined that in the event unit No. 12 goes out of service portable generating equipment could be leased and put into service rapidly, thereby alleviating the need for the city to institute load curtailment measures for an extended period of time.

Since it appears that the city can maintain electric service to its customers through the implementation of its load curtailment plan and/or the leasing of portable generating equipment, ERA concludes that an emergency within the meaning of section 202(c) of the Federal Power Act does not presently exist. The city may file another 202(c) petition if it determines that electric service cannot be maintained after the load curtailment plan and/or leasing measures have been fully utilized.

#### FINDINGS

The Assistant Administrator for Utility Systems, Economic Regulatory Administration, finds that:

1. The city operates an isolated electric system and does not at this time have any means of immediately receiving emergency electric supply from outside its own system;

2. The city has several options available which would maintain electric service to its customers without receiving outside assistance; and

3. An emergency within the meaning of section 202(c) of the Federal Power Act does not now exist nor has it been shown that such an emergency will exist at the time of the 1978 summer peak.

#### ORDER

The Assistant Administrator for Utility Systems, Economic Regulatory Administration, orders that the petition of the city of Rensselaer be denied without prejudice.

A copy of this order shall be published in the FEDERAL REGISTER.

Issued in Washington, D.C. this 28th day of June 1978.

CHARLES A. FALCONE,  
Acting Assistant Administrator  
for Utility Systems, Economic  
Regulatory Administration,  
Department of Energy.

[FR Doc. 78-18481 Filed 7-3-78; 8:45 am]

[6560-01]

### ENVIRONMENTAL PROTECTION AGENCY

[FRL 922-21]

#### SCIENCE ADVISORY BOARD; TECHNOLOGY ASSESSMENT AND POLLUTION CONTROL ADVISORY COMMITTEE

#### Open Meeting

As required by Pub. L. 92-463, notice is hereby given that a meeting of the Technology Assessment and Pollution Control Advisory Committee will be held beginning at 9 a.m., July 20, 21, and 22, 1978, in Room 3906, EPA Headquarters, 401 "M" Street SW., Washington, D.C. The meeting is open to the public. Any member of the public wishing to attend or to have further information on the meeting should contact Lloyd Taylor or Judi Blinn, 703-557-7720.

The Committee will discuss technology problems relating to air pollution from increased coal burning, technological problems in controlling discharges of toxic chemicals, and items of interest to the members.

LLOYD T. TAYLOR,  
Acting Staff Director,  
Science Advisory Board.

JUNE 28, 1978.

[FR Doc. 78-18510 Filed 7-3-78; 8:45 am]

[6560-01]

[FRL 921-81]

### WATER QUALITY CRITERIA

#### Correction

In FR Doc. 78-13294, Thursday, May 18, 1978 at 43 FR 21506, EPA pub-

lished and invited comment on technical guidelines for deriving water quality criteria. In that document a number of errors appeared which need correction. The corrections are listed below.

1. Table 2, page 21512, left hand column: Delete line 6 (.84 .98 1 34).

2. Table 2, page 21512, left hand column: Line 18, change .16 to 0.65.

3. Table 2, page 21512, middle column: Replace the values in the section entitled Geometric Means (with numbers of values in parentheses) as follows:

Inorganic salts.....	0.46(62)	0.73(63)	0.87(24)
Others:			
Flow-through.....	0.77(34)	0.85(26)	0.94(17)
Static.....	0.72(211)	0.86(107)	0.94(62)
Grand means.....	0.66(307)	0.81(196)	0.92(103)

4. Table 3, page 21513, middle column: Change line 5 from 141, 79 to 141, 79, 141.

5. Table 6, page 21514, right hand column: Line 29 (Inorganic salts), change 0.014 to 0.14.

6. Table 6, page 21515, middle column: Last line, replace last blank with Reference No. 7. (.03 ..... 7).

7. Table 6, page 21515, right hand column: Delete the 17th line from the bottom (.28 ..... ).

8. Table 8, page 21516, right hand column: Change H<sub>2</sub>S value 0211 to 0.211.

9. Table 10, page 21517, middle column: Delete the 32nd line from the bottom. (Do.....5.9 3.7 .63 5).

10. Table 10, page 21517, right hand column: 35th line from bottom: Replace Do with 1, 3 dichloropropene.

11. Page 21507, middle column: 1st paragraph, line 4: Replace 308 with 307.

12. Page 21507, middle column: 4th paragraph, line 9: Delete copepods.

13. Page 21508, right hand column: Roman numeral III: Replace paragraph A with: A. 48-hr LC50 and EC50 values for mollusc bivalve and barnacle larvae, daphnia and other cladocera and midges, are used as 96-hr values. For use of LC50 and EC50 values for time periods other than 48 hours for these species, see section VII. Values for brine shrimp are not used.

14. Page 21508, right hand column: Roman numeral III, between paragraphs C and E: insert: D. multiply all 24-, 48-, and 72-hr LC50 values by correction factors of 0.26, 0.43, and 0.61, respectively, to simulate 96-hr values (h). Do not correct the 48-hr values noted in A.

15. Page 21509, middle column: Footnote (b): Replace 308, 197 and 104 with 307, 196 and 103.

Dated: June 27, 1978.

THOMAS C. JORLING,  
Assistant Administrator for  
Water and Hazardous Materials.  
[FR Doc. 78-18452 Filed 7-3-78; 8:45 am]

[6712-01]

### FEDERAL COMMUNICATIONS COMMISSION

[RM-1878; FCC 78-391]

#### INTERCITY CLOSED CIRCUIT EDUCATIONAL TELEVISION SYSTEMS

#### Denying Petition for Rulemaking

Adopted: June 7, 1978.

Released: June 27, 1978.

In the matter of amendment of parts 2, 89, and 91 of the Commission's rules regarding intercity closed circuit educational television systems, memorandum, opinion and order.

By the Commission:

1. The Commission has before it a petition from the Central Committee on Communication Facilities of the American Petroleum Institute, hereinafter referred to as the "Central Committee". Petitioner requested that the Commission institute a rulemaking proceeding that would require authorizations of future closed circuit educational television (CCETV) stations below 10 GHz take place in the 6875-7125 MHz band.

2. Comments and reply comments were filed by seven different organizations including the Central Committee. Supporting the petition were the Petroleum Industry Electrical Association, the Association of American Railroads, and the Utilities Telecommunications Council. Opposing the petition were the Joint Council on Educational Telecommunications, the National Association of Educational Broadcasters and A. Earl Cullum, Jr. & Associates.

3. The petition and statements in support thereof claim that the 6575-6875 MHz band is the "backbone" of the industrial microwave communication systems, and that allowing CCETV systems, which use bandwidths (20 MHz) that are twice those of the industrial systems, to continue using the band will cause congestion problems and in some places preempt future industrial users. Petitioner claimed that sharing this band between wideband and narrowband systems constitutes poor spectrum management by the Commission and should be corrected. It suggested that a good place in the spectrum below 10 GHz would be the 6875-7125 MHz band where the primary allocation is to the Broadcast Auxiliary Service (BAS) which also uses wideband channels.

4. Those who filed statements in opposition to the petition claimed that

congestion of the 6575-6875 MHz band was due to heavy use by industrial users and that CCETV users were just a small percent of the total number of users in the band. They also claimed that the 6875-7125 MHz band was very full, and that there is no evidence that CCETV sharing this band with the BAS could be accomplished without causing future interference problems to either or both services. They go on to say that the case-by-case assignment procedure that existed in the 6575-6875 MHz band was a superior procedure in that it gave the Commission its greatest freedom and flexibility in making CCETV assignments.

5. Since the filing of the petition, several Commission actions relevant to this matter have taken place. The most important of these was the report and order of docket 19869 (52 FCC 2d 894) which created part 94 of the Commission's Rules for the Private Operational Fixed Microwave Radio Service. In this docket the Commission addressed the issue of CCETV's use of the 6575-6875 MHz band and determined that it was in the public's interest to prohibit future wideband video systems from being licensed in operational fixed bands below 12 GHz. Part 94 does, however, allow existing wideband video systems in the 6 GHz band to remain at their present assignments.

6. The only remaining issue to be addressed in connection with the present petition (RM-1878) is whether or not to permit CCETV users to share the 6875-7125 MHz band with the BAS. The petition noted that, since both services use wide band video channels, it would be appropriate for them to share the same band. On the other hand, both the BAS users and the CCETV users, who would presumably be the beneficiaries of shared use of this band, opposed the sharing concept on the grounds that this band is already so heavily used that sharing would be of little or no value. Moreover, it has been our experience that band sharing between widely divergent groups of users compounds channel selection and coordination problems with resulting increase in costs to applicants and the Commission. Additional costs might be justified if they resulted in substantial improvements in spectrum usage or communications services to the public. However, such improvement would not be likely to occur here if, as respondents contend, this band is already in a nearly saturated condition. Indeed, our own studies indicate heavy usage of this band and suggest very little potential for future growth of any kind, particularly in urban areas and along busy microwave routes. Therefore, we conclude that extending the use of this band to CCETV users would be largely

ineffective in meeting the needs of that service and would unnecessarily increase the cost of utilizing the limited remaining potential that this band has to offer. We note here, as in our docket 19869 decision, that ample spectrum at 12 GHz is available for CCETV growth and should be satisfactory for most future applications in this service.

7. Accordingly, to the extent that action taken herein and in docket 19869 satisfies petitioner's request, RM-1878 is hereby granted. In all other respects it is denied.

8. This action is taken pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,  
*Secretary.*

[FR Doc. 78-18444 Filed 7-3-78; 8:45 am]

#### [6712-01]

[FCC 78-443]

#### 1979 COMPOSITE WEEK DATES FOR AM AND FM LICENSEES FOR PROGRAM LOG ANALYSIS

JUNE 27, 1978.

The following dates will constitute the composite week for use in the preparation of: (1) program log analysis submitted with renewal applications for commercial AM and FM station licenses which have expiration dates in calendar year 1979; and (2) assignment of license and transfer of control applications for AM and FM stations which are filed in calendar year 1979.

Sunday, October 23, 1977,  
Monday, March 20, 1978,  
Tuesday, May 16, 1978,  
Wednesday, April 5, 1978,  
Thursday, November 17, 1977,  
Friday, August 12, 1977, and  
Saturday, January 7, 1978.

Commercial television licensees and permittees with license expiration dates of February 1 and April 1, 1979 will use, in answering questions 5, 11 and 12 of revised Section IV of FCC Form 303, the composite week dates previously used in preparing the 1977 annual programming report. Stations whose licenses expire on June 1 and thereafter during calendar year 1979 will use a composite week that will be issued in November, 1978. The composite week dates to be used in the preparation of the 1978 annual programming report (FCC form 303-A), required to be filed February 1, 1979 will also be issued in November, 1978.

Action by the Commission June 26, 1978. Commissioners Ferris (Chair-

man), Lee, Quello, Washburn, Fogarty, White and Brown.

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,  
*Secretary.*

[FR Doc. 78-18431 Filed 7-3-78; 8:45 am]

#### [6712-01]

#### RADIO TECHNICAL COMMISSION FOR MARINE SERVICES Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 73, "Minimum Performance Standards (MPS) Marine Omega Receiving Equipment."

Notice of second meeting. Tuesday, July 18, 1978, 9 a.m., Conference Room, Maritime Institute of Technology and Graduate Studies (MITAGS), 5700 Hammonds Ferry Road, Linthicum Heights, Md. 21090.

Agenda: (1) Call to order; chairman's report, (2) Administrative matters, (3) reports of working groups.

M. H. Carpenter, Co-Chairman, Maritime Institute of Technology and Graduate Studies, 5700 Hammonds Ferry Road, Linthicum Heights, Md. 21090, phone 301-636-5700.

Comdr. Thomas P. Nolan, Co-Chairman, U.S. Coast Guard Headquarters, Washington, D.C., phone 202-245-0837.

Special Committee No. 72, "Numerical Identification of Stations in Maritime Telecommunications Systems."

Notice of seventh meeting. Monday, July 24, 1978, 9:30 a.m., Conference Room 8210, 2025 M Street NW., Washington D.C.

Agenda: (1) Call to order; chairman's report, (2) administrative matters, (3) reports of recent CCIR and CCITT meetings, (4) Adoption of U.S. position for IWP 8/6 third meeting.

Francis K. Williams, Chairman, SC-72, Federal Communications Commission, Washington, D.C. 20554, phone 202-632-7054.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat phone 202-632-6490.

FEDERAL COMMUNICATIONS  
COMMISSION,  
WILLIAM J. TRICARICO,  
*Secretary.*

[FR Doc. 78-18432 Filed 7-3-78; 8:45 am]

## [6730-01]

**FEDERAL MARITIME COMMISSION**

[Independent Ocean Freight Forwarder  
License No. 881]

**COLUMBIA EXPORT PACKERS, INC.****Order of Revocation**

The bond issued in favor of Columbia Export Packers, Inc., 19032 South Vermont Avenue, Torrance, Calif. 90502, FMC No. 881, was canceled effective June 21, 1978.

By letter dated May 24, 1978, Columbia Export Packers, Inc., was advised by the Federal Maritime Commission that independent ocean freight forwarder license No. 881 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before June 21, 1978.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission general order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Columbia Export Packers, Inc., has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission order No. 201.1 (revised), section 5.01(d), dated August 8, 1977.

*It is ordered,* That independent ocean freight forwarder license No. 881 be and is hereby revoked effective June 21, 1978.

*It is further ordered,* That independent ocean freight forwarder license No. 881 issued to Columbia Export Packers, Inc., be returned to the Commission for cancellation.

*It is further ordered,* That a copy of this order be published in the FEDERAL REGISTER and served upon Columbia Export Packers, Inc.

ROBERT M. SKALL,  
*Deputy Director, Bureau of  
Certification and Licensing.*

[FR Doc. 78-18497 Filed 7-3-78; 8:45 am]

## [6730-01]

[Independent Ocean Freight Forwarder  
License No. 1704-R]

**I.A.C. INTERNATIONAL CORP.****Order of Revocation**

On June 9, 1978, I.A.C. International Corp., 793 Golf Lane, Bensenville, Ill. 60106, voluntarily surrendered its independent ocean freight forwarder license No. 1704-R for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Com-

mission order No. 201.1 (revised), section 5.01(c), dated August 8, 1977;

*It is ordered,* That independent ocean freight forwarder license No. 1704-R, issued to I.A.C. International Corp., be and is hereby revoked effective June 9, 1978, without prejudice to reapply for a license in the future.

*It is further ordered,* That a copy of this order be published in the FEDERAL REGISTER and served upon I.A.C. International Corp.

ROBERT M. SKALL,  
*Deputy Director, Bureau of  
Certification and Licensing.*

[FR Doc. 78-18498 Filed 7-3-78; 8:45 am]

## [6730-01]

[Independent Ocean Freight Forwarder  
License No. 1762]

**MANUEL ALONSO****Order of Revocation**

The bond issued in favor of Manuel Alonso, 94-11 60th Avenue, Apt. 4E, Rego Park, N.Y. 11373, FMC No. 1762, was canceled effective June 21, 1978.

By letter dated May 24, 1978, Manuel Alonso was advised by the Federal Maritime Commission that independent ocean freight forwarder license No. 1762 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before June 21, 1978.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission general order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Manuel Alonso has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission order No. 201.1 (revised), section 5.01(d), dated August 8, 1977;

*It is ordered,* That independent ocean freight forwarder license No. 1762 be and is hereby revoked effective June 21, 1978.

*It is further ordered,* That independent ocean freight forwarder license No. 1762 issued to Manuel Alonso be returned to the Commission for cancellation.

*It is further ordered,* That a copy of this order be published in the FEDERAL REGISTER and served upon Manuel Alonso.

ROBERT M. SKALL,  
*Deputy Director, Bureau of  
Certification and Licensing.*

[FR Doc. 78-18499 Filed 7-3-78; 8:45 am]

## [6730-01]

**COOK INDUSTRIES, INC.****Agreements Filed**

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the field offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 17, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

**Agreement No. T-2832-E-2.**

Filing party: Mr. Frederick M. Lowther, Counsel for Cook Industries, Inc., Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.

Summary: Agreement No. T-2832-E-2, between the Port of Portland (port) and Columbia River Terminal Co. (Columbia), modifies the parties' basic agreement providing for the lease to Columbia of certain premises to be used as a parking lot at the Port of Portland, Ore. The purpose of the modification is to provide for a third successive 5-year option extension period to the basic agreement.

By order of the Federal Maritime Commission.

Dated: June 29, 1978.

FRANCIS C. HURNEY,  
*Secretary.*

[FR Doc. 78-18500 Filed 7-3-78; 8:45 am]

## [6730-01]

**AGREEMENTS FILED**

The Federal Maritime Commission hereby gives notice that the following

agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 25, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

#### Agreement No.: T-2401-3.

Filing Party: Richard L. Landes, Deputy City Attorney, Office of the City Attorney of Long Beach, City Hall, 333 West Ocean Boulevard, Long Beach, Calif. 90802.

Summary: Agreement No. T-2401-3, between city of Long Beach (city) and Sea-Land Services, Inc., (Sea-Land), modifies the basic agreement which provides for the preferential assignment covering the lease to Sea-Land of certain premises for use as a marine terminal. The purpose of the modification is to: (1) reduce the area of parcel 1 by approximately 29.56 acres by releasing parcel 1B back to city and reduce the monthly compensation and other related charges (including utility charges); (2) eliminate paragraph 2(b) providing for Sea-Land's option for parcel II; (3) grant Sea-Land an option for the reassignment of all or any part of berth 229, pier G, at which time rental will be negotiated by the parties; (4) grant certain secondary users rights to the wharf, adjacent wharf premises, including crane rails and related utility facilities; (5) delete paragraph 41 which provides for the assignment of newly developed land areas; (6) add a new paragraph providing for the payment by city of \$109,625 as partial consideration for the execution of this amendment; (7) add a new paragraph which gives Sea-Land no right of relocation assistance or payment from city upon expiration or earlier termination of the agreement; (8) add a new paragraph prohibiting Sea-Land from discriminating against employees or applicants for employment because of race, sex, color, religion, ancestry, or national origin; (9) amend paragraph 7 whereby city

will construct building improvements up to a cost of \$625,000 and yard improvements at its sole expense; (10) amend paragraph 8 by increasing the distance Sea-Land will clear the apron of the wharf from 75 feet to 110 feet from the waterfront; (11) bill Sea-Land directly for the use of utilities except for those parcels to be prorated with other assignees; (12) add new paragraphs related to the payment of taxes and reciprocal berthing rights; and (13) provide for McLean Industries, Inc., to act a guarantor.

#### Agreement No. 57-111.

Filing Party: D. D. Day, Jr., Chairman, Pacific Westbound Conference, 320 California Street, Suite 600, San Francisco, Calif. 94104.

Summary: Agreement No. 57-111 is an application filed on behalf of the member lines of the Pacific Westbound Conference Agreement No. 57 to (1) amend article 11(a)(1) thereof to include article 25 in the list of articles enumerated therein which, if violated, constitute a malpractice; and (2) delete the following paragraph from article 25:

Each party hereto has a duty to report to the Chairman any information as to a violation of this article. The Chairman shall investigate any information indicating a possible violation and has the authority to employ outside assistance at conference expenses to assist in such investigation. Violations of this article shall be dealt with in accordance with article 13.

#### Agreement No. 57-112.

Filing Party: D. D. Day, Jr., Chairman, Pacific Westbound Conference, 320 California Street, Suite 600, San Francisco, Calif. 94104.

Summary: Agreement No. 57-112 is an application on behalf of the member lines of the Pacific Westbound Conference to amend article 14, paragraph (4)(a) of the appendix to extend the time within which a member line can appeal a determination of a misrating to the Conference Misrating Committee. The time is extended to 30 calendar days instead of 15 working days.

#### Agreements Nos. 7680-37, 9420-7.

Filing Party: Seymour H. Kligler, Esq., Brauner Baron Rozenzweig Kligler & Sparber, (The Firm of Herman Goldman), Attorneys at Law, 120 Broadway, New York, N.Y. 10005.

Summary: Agreements Nos. 7680-37 and 9420-7 would amend the self-policing provisions of the American West African Freight Conference and the United States Great Lakes and St. Lawrence River Ports/West Africa Rate Agreement, respectively, to conform to the requirements of the Commission's new self-policing rules as contained in revised general order 7 (Part 528 of Title 46 CFR).

#### Agreement No.: 8090-16.

Filing Party: Marc J. Fink, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Summary: Agreement No. 8090-16, among the members of the Mediterranean/North Pacific Coast Freight Conference modifies the agreement by adding inland points in Greece to the scope of the agreement and also authorizes the Conference to consult and agree with other conferences in inland European matters.

#### Agreement No.: 9522-36.

Filing Party: Marc J. Fink, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Agreement No. 9522-36, among the member lines of the Med-Gulf Conference,

modifies the basic agreement by deleting the present termination date of the right of independent action (November 1, 1978) and makes the right of independent action permanent.

#### Agreement No.: 9836-6.

Filing Party: D. D. Day, Jr., Secretary, Malaysia-Pacific Rate Agreement, 320 California Street, Suite 600, San Francisco, Calif. 94104.

Summary: Agreement No. 9836-6 would amend the self-policing provisions of the Malaysia-Pacific Rate Agreement to conform to the requirements of the Commission's new self-policing rules as contained in revised General Order 7 (Part 528 of Title 46 CFR). In particular, the proposed modification provides for the appointment of a neutral body for the purpose of investigating upon its own initiative and/or written complaints in accordance with the terms and conditions set forth in the agreement. Agreement No. 9836, as amended, presently provides for self-policing by arbitration.

#### Agreement No.: 9836-7.

Filing Party: D. D. Day, Jr., Secretary, Malaysia-Pacific Rate Agreement, 320 California Street, Suite 600, San Francisco, Calif. 94104.

Summary: Agreement No. 9836-7 would amend the Malaysia-Pacific Rate Agreement by adding a new Article 9 reading as follows:

#### ARTICLE 9—*Suom Measurer*

"The parties from time to time may jointly employ and subsequently discharge one or more cargo inspection agencies at any port at which cargo in the Malaysia Trade is loaded or discharged. Such agencies shall be (1) charged with the responsibility for measuring, weighing, and inspecting cargo, and checking records, all as may be required, to ensure that shipments are properly measured, weighed, described and billed, and (2) paid for such services on a pro-rata basis by the individual party carrying the cargo receiving the service or in such other manner as the parties hereto may determine. The parties shall name any such agencies in a common tariff which tariff may also set forth rules and regulations pertaining to the employment and other activities of such agencies."

#### Agreement No.: 10012-3.

Filing Party: F. Conger Fawcett, Esquire, Graham & James, One Maritime Plaza, San Francisco, Calif. 94111.

Summary: Agreement No. 10012-3 is an application on behalf of the member lines of the Australia-Pacific Coast Rate Agreement (No. 10012) to extend the terms and conditions of the presently approved intermodal authority under the agreement for an unlimited period beyond the present expiration date of August 31, 1978. Agreement NO. 10012 covers an arrangement for the establishment and maintenance of freight rates on cargo moving from ports in Australia, and inland points via such ports, to ports on the Pacific Coast of the United States and inland points via such ports.

#### Agreement No.: 10028-6.

Filing Party: John D. Straton, Jr., Director—Rates and Conferences, Moore-McCormack Lines, Inc., 2 Broadway, New York, N.Y. 10004.

Summary: Agreement No. 10028-6, by and among Moore-McCormack Lines Inc., Companhia de Navegacao Lloyd Brasileiro, and Companhia de Navegacao Maritima Netumar, amends the parties' basic cargo revenue pooling and sailing agreement in the



northbound trade from Brazilian ports to U.S. Atlantic ports to include in the revenue pool the revenues derived from cargo loaded at the Brazilian port of Sao Sebastiao. Further, the agreement provides that each party is to make at least six port calls at this port during each pool period.

Agreement No.: 10159-6.

Filing Party: John K. Cunningham, Chairman, American West African Freight Conference, 67 Broad Street, New York, N.Y. 10004.

Summary: Agreement No. 10159-6 has been entered into by Barber Lines, A/S; Black Star Line, Ltd.; Compagnie Maritime Belge, S.A.; Compagnie Maritime Des Chargeurs Reunis, S.A.; Companhia Nacional De Navegacao, Companhia De Navegacao Angolana S.A.R.L.; Compagnie Maritime Zairoise, S.A.R.L.; Westwind Africa Line; Dafa Lines; Delta Steamship Lines, Inc.; Elder Dempster Lines, Ltd.; Farrell Lines, Inc.; Nopal West African Line and the American West African Freight Conference, for the purpose of (1) extending the terms and conditions of the presently approved agreement beyond the current expiration date of December 31, 1978 until December 31, 1980; (2) amending Article 5(a) to increase from 2,400 to 3,000 weight tons the tonnage each line is allocated to carry for discharge at its designated berth, and to provide that said tonnage which may be increased by mutual agreement if an average of more than 400 weight tons is discharged per day, be increased to 500 weight tons; and (3) adding a new Article 16 which makes provisions for discharged cargo in excess of the agreed maximum ton allocation.

Agreement No. 10159, as amended, authorizes the member lines thereof (all of whom are members of the American West African Freight Conference) to rationalize their berth services at the port of Lagos/Apapa, Nigeria to insure that no more than two vessels are in port at one time.

Agreement No. 10342.

Filing Party: Frank V. Quinn, General Manager, Documentation Services, Farrell Lines Inc., One Whitehall Street, New York, N.Y. 10004.

Summary: Agreement No. 10342, between Farrell Lines Inc. and Zambesi Africa Line (PTY) Ltd., provides for through carriage of general cargoes between Mauritius, Reunion, Malagasy Republic, Comoro Islands, Mozambique, and the Seychelles Islands and U.S. Atlantic ports with transshipment at ports in the Republic of South Africa in accordance with the terms and conditions set forth in the agreement.

By Order of the Federal Maritime Commission.

Dated: June 28, 1978.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 78-18501 Filed 7-3-78; 8:45 am]

## [6210-01]

### FEDERAL RESERVE SYSTEM

#### FIRST NATIONAL BANK OF GILLETTE HOLDING CO.

##### Formation of Bank Holding Company

First National Bank of Gillette Holding Co., Gillette, Wyo., has applied for the Board's approval under

section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of Gillette, Gillette, Wyo. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 24, 1978.

Board of Governors of the Federal Reserve System, June 28, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary  
of the Board.

[FR Doc. 78-18494 Filed 7-3-78; 8:45 am]

## [6210-01]

### HARLINGEN NATIONAL BANCSHARES, INC.

#### Formation of Bank Holding Company

Harlingen National Bancshares, Inc., Harlingen, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81 percent or more of the voting shares of Harlingen National Bank, Harlingen, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 25, 1978.

Board of Governors of the Federal Reserve System, June 28, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary  
of the Board.

[FR Doc. 78-18495 Filed 7-3-78; 8:45 am]

## [6210-01]

### SOUTHERN BANCORPORATION OF ALABAMA

#### Acquisition of Bank

Southern Bancorporation of Alabama, Birmingham, Ala., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of First National Bank of Attalla, Attalla, Ala. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 25, 1978.

Board of Governors of the Federal Reserve System, June 28, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary  
of the Board.

[FR Doc. 78-18496 Filed 7-3-78; 8:45 am]

## [6820-24]

### GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR A-68]

#### DISTRIBUTION OF FPMR MATERIALS

1. *Purpose.* This bulletin provides information concerning agency requests for the distribution of FPMR materials.

2. *Expiration date.* This bulletin expires June 30, 1979.

3. *Background.* a. The provisions of FPMR 101-1.104-2 require agencies to designate an official to serve as liaison with the General Services Administration (GSA) on matters pertaining to the distribution of the FPMR and other publications in the FPMR series.

b. In accordance with instructions provided GSA by the agency, the FPMR and other publications are shipped in bulk to agency activities. These materials are available only through the procedures provided in this bulletin and cannot be obtained from GSA regional offices.

4. *Agency guidelines—*a. *Distribution of FPMR materials.* Procedures for establishing initial requirements for FPMR materials are set forth in FPMR 101-1.104-2. To establish or revise requirements for the FPMR and other publications in the FPMR series, the agency publications liaison officer submits consolidated requirements, including those of field activities, and changes in such requirements, on GSA form 2053, Agency Consolidated Requirements for GSA Regulations and Other External Issuances. This form, which is submitted to General Services Administration (FFP), Washington, D.C. 20406, is used to:

(1) Initially place an agency on a distribution list;

(2) Increase or decrease the number of copies to be received by an agency;

(3) Change an agency address; or

(4) Change any other pertinent information such as the name of an agency or agency publications liaison officer.

b. *Distribution of GSA handbooks.*

(1) Certain GSA handbooks issued

pursuant to the FPMR (FEDSTRIP Operating Guide (FPMR 101-26.2), Emergency Supply Support Operations (FPMR 101-34.3), and Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101-26.8)) are distributed to agencies in accordance with the instructions furnished on GSA form 457, FSS Publications Mailing List Application, use of which is prescribed in FPMR 101-26.402-3. To establish initial requirements or to revise or terminate requirements previously established for these handbooks, a GSA form 457 should be submitted by the agency publications liaison officer to General Services Administration (8FFS), Centralized Mailing List Services, Building 41, Denver Federal Center, Denver, Colo. 80225. In those agencies where the publications liaison officer does not control the submission of GSA forms 457, care should be exercised by the ordering office to avoid duplication of requirements.

(2) To establish initial requirements or to revise or terminate requirements previously established for any GSA handbook other than those listed in subpar. 4b(1), above, the agency publications liaison officer should submit a letter to GSA (FFP) for appropriate action. If requirements are being revised or terminated, the letter should cite both the previous requirements and the current requirements.

c. *Discrepancies in the distribution of FPMR material.* Individual agency addressees who experience discrepancies in the distribution of FPMR material though the publications liaison officer program should contact the publications liaison officer, who in turn will contact GSA (FFP).

d. *One-time requests for additional copies of a specific FPMR publication above and beyond quantities previously established.* (1) If initial requirements for the publication were established on GSA form 2053, a letter should be submitted by the publications liaison officer to GSA (FFP).

(2) If initial requirements for the publication were established on GSA form 457, a letter should be submitted by the publications liaison officer to GSA (8FFS).

e. *Distribution of non-FPMR-related materials.* Agency personnel requiring GSA publications which are not part of the FPMR distribution system should contact their agency publications liaison officer to determine whether consolidated requirements will be submitted to GSA.

5. *Agency assistance.* Assistance regarding distribution requirements or discrepancies in distribution will be provided to agency publications liaison officers by GSA (FFP), telephone number 703-557-5026. Other agency individuals should not contact GSA directly but should request that the

agency publications liaison officer contact GSA (FFP) for assistance.

JAY SOLOMON,  
Administrator of  
General Services.

JUNE 20, 1978.

[FR Doc. 78-18439 Filed 7-3-78; 8:45 am]

#### [6820-25]

Intervention Notice 703; Case No. 72201

MARYLAND PUBLIC SERVICE COMMISSION;  
CHESAPEAKE & POTOMAC TELEPHONE CO.

Proposed Intervention in Telephone Directory  
Assistance Charge Proceeding

The Administrator of General Services seeks to intervene in a proceeding before the Maryland Public Service Commission concerning the application of the Chesapeake & Potomac Telephone Co. for directory assistance charging. The Administrator of General Services represents the interests of the executive agencies of the U.S. Government as users of telecommunications services.

The Chesapeake & Potomac Telephone Co. proposes to impose a 20-cent charge on directory assistance calls and a 40-cent charge on operator assisted directory assistance calls, to be offset by a 30-cent monthly reduction in basic exchange rates. The proposal may result in cost increases to the executive agencies.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0726, on or before August 4, 1978, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: June 22, 1978.

JAY SOLOMON,  
Administrator of  
General Services.

[FR Doc. 78-18440 Filed 7-3-78; 8:45 am]

#### [6820-24]

[Intervention Notice 71; Docket No. 27353]

NEW YORK PUBLIC SERVICE COMMISSION;  
CONSOLIDATED EDISON CO. OF NEW YORK

Proposed Intervention in Utility Rate  
Proceeding

The Administrator of General Services seeks to intervene in a proceeding before the New York Public Ser-

vice Commission involving an application of Consolidated Edison Co. of New York for an increase in rate charges for electric service. The Administrator of General Services represents the interests of the executive agencies of the U.S. Government as consumers of electric services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0726, on or before August 4, 1978, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: June 26, 1978.

JAY SOLOMON,  
Administrator of  
General Services.

[FR Doc. 78-18441 Filed 7-3-78; 8:45 am]

#### [4110-89]

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL FOR CAREER  
EDUCATION

Meeting

AGENCY: Office of Education, National Advisory Council for Career Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meeting of the National Advisory Council for Career Education. It also describes the functions of the Council. Notice of the meeting is required pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463.) This document is intended to notify the general public of their opportunity to attend.

DATE: July 21, 1978.

ADDRESS: Room 3000, FOB No. 6, 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION  
CONTACT:

Dr. Joseph Scherer, Office of Education, Office of Career Education, 7th and D Streets SW., Room 3100, ROB No. 3, Washington, D.C. 20202, 202-245-2547.

The National Advisory Council for Career Education is established under

section 406 of the Education Amendments of 1974, Pub. L. 93-380, (88 Stat. 552, 553.) The Council is directed to:

Advise the Commissioner of Education on the implementation of section 406 of the Education Amendments of 1974, sections 331-336 of the Education Amendments of 1976, and the Career Education Incentive Act and carry out such advisory functions as it deems appropriate, including reviewing the operation of these sections and all other programs of the Division of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining the need for further legislative remedy in order that all citizens may benefit from the purpose of career education as described in section 406 and in the Career Education Incentive Act.

The Council with the assistance of the Commissioner conducted a survey and assessment of the current status of career education programs, projects, curricula, and materials in the United States and submitted to Congress a report on such survey.

The Assistant Secretary shall, to the extent practicable, seek the advice and assistance of the Council concerning the lifelong learning activities authorized by sec. 133, part B, title I of the higher Education Act of 1965, as amended.

The meeting of the Council shall be open to the public. The meeting will be held on Friday, July 21, 1978, and will begin at 9 a.m. and end at 4:30 p.m. The meeting will be held at the Federal Office Building No. 6 (FOB No. 6), located at 400 Maryland Avenue SW., Room 3000, Washington, D.C. 20202.

The proposed agenda includes:

- (1) Swearing in of new members.
- (2) Discuss structure and function of Council.
- (3) Discuss legislative progress.
- (4) Nominate vice chairperson and establish subcommittees.
- (5) Other business.

Records shall be kept of all Council proceedings and shall be available 14 days after the meeting for public inspection at the Office of Career Education located at 7th and D Streets SW., Room 3100, ROB No. 3, Washington, D.C. 20202.

Signed at Washington, D.C., on June 28, 1978.

JOHN LINDIA,  
*Delegate, National Advisory  
Council for Career Education.*

[FR Doc. 70-18451 Filed 7-3-78; 8:45 am]

[4110-02]

**NATIONAL ADVISORY COUNCIL ON  
VOCATIONAL EDUCATION**

**Meeting**

Notice is hereby given, pursuant to Pub. L. 92-463, that the National Advisory Council on Vocational Education will hold a meeting closed to the public from 8:30 a.m. to 4 p.m. on August 3, 1978, local time, at the Western Hills Guest Ranch, Wagoner, Okla. On August 4, 1978, from 9 a.m. to 12 noon, local time, the National Advisory Council on Vocational Education meeting will be open to the public.

The meeting of August 3, 1978, will be closed to the public in accordance with the provisions of section 10 (d), Federal Advisory Committee Act, Pub. L. 92-463 and title V, United States Code, section 552b(c) (2) and (6). The purpose of the closed meeting is to discuss internal personnel matters with regard to the selection of a new Executive Director, and documents may be presented which, if open to the public, would constitute a clearly unwarranted invasion of personal privacy.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning the administration of, preparation of general regulations for, and operation of vocational education programs, supported with assistance under the act; review the administration and operation of vocational education programs under the act, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the Secretary of HEW for transmittal to the Congress, and conduct independent evaluation of programs carried out under the act and publish and distribute the results thereof.

The agenda shall include:

**AUGUST 3, 1978—CLOSED**

A.M.—Convene at 8:30; report of the Chairman; presentations of candidates for position of Executive Director.

P.M.—Discussion of candidates and election of the Executive Director.

**AUGUST 4, 1978—OPEN**

A.M.—Report of the Chairman on closed meeting; report from the USOE; discussion of Council activities/calendar; task force reports.

For further information call:  
Virginia Solt, 202-376-8873.

Records of the meeting proceedings shall be kept and made available for

public inspection at the office of the Council's Executive Director, located at 425 13th Street NW., Suite 412, Washington, D.C. 20004.

Signed at Washington, D.C., on June 29, 1978.

GEORGE WALLRODT,  
*Acting Executive Director.*

[FR Doc. 78-18455 Filed 7-3-78; 8:45 am]

[4110-85]

**Public Health Service**

**DELEGATIONS OF AUTHORITY**

Notice is hereby given that the following actions have been taken within the Public Health Service with regard to delegated authorities for administering the programs of the Public Health Service:

1. Revocation by the Assistant Secretary for Health of all delegations of authorities which pertain to the functions currently assigned to the Public Health Service made by the Assistant Secretary for Health to the Deputy Assistant Secretary for Health—Programs, excluding the delegations of personnel, financial, and administrative management authorities;

2. Revocation by the Assistant Secretary for Health of all delegations made by the Assistant Secretary for Health—Programs to the Deputy Assistant Secretary for Health Policy, Research, and Statistics of authorities which pertain to the functions currently assigned to the National Center for Health Statistics and the National Center for Health Services Research, excluding the delegations of personnel, financial, and administrative management authorities;

3. Revocation by the Assistant Secretary for Health of all delegations made by the Deputy Assistant Secretary for Health—Programs to the Administrator, Alcohol, Drug Abuse, and Mental Health Administration; the Director, Center for Disease Control; the Commissioner of Food and Drugs; the Administrator, Health Resources Administration; the Administrator, Health Services Administration; and the Director, National Institutes of Health of authorities which pertain to the functions currently assigned to their respective organizations; and

4. Delegation by the Assistant Secretary for Health to the Deputy Assistant Secretary for Health Policy, Research, and Statistics; the Administrator, Alcohol, Drug Abuse, and Mental Health Administration; the Director, Center for Disease Control; the Commissioner of Food and Drugs; the Administrator, Health Resources Administration; the Administrator, Health Services Administration; and the Director, National Institutes of Health, with authority to redelegate consistent with provisions of the respective



delegations, of all the authorities which pertain to the functions currently assigned to their respective organizations and which had been delegated to them by the Deputy Assistant Secretary for Health—Programs. Provision was made for all delegations or redelegations of such authorities to officials or employees of the Office of Health Policy, Research, and Statistics within the Office of the Assistant Secretary for Health; the Alcohol, Drug Abuse, and Mental Health Administration; the Center for Disease Control; the Food and Drug Administration; the Health Resources Administration; the Health Services Administration; the National Institutes of Health; and the PHS Regional Offices; and to other Public Health Service officials to continue in effect, pending issuance of further redelegations.

The actions cited above became effective June 23, 1978.

Dated: June 23, 1978.

**JULIUS B. RICHMOND,**  
*Assistant Secretary for Health.*

[FR Doc. 78-18465 Filed 7-3-78; 8:45 am]

#### [4310-84]

### DEPARTMENT OF THE INTERIOR

#### Bureau of Land Management

#### Washington

#### Filing of Corrective Dependent Resurvey Plat

JUNE 26, 1978.

Notice is hereby given that effective at 10 a.m., August 10, 1978, a corrective dependent resurvey plat of T. 32, N., R. 42 E., W.M., restoring the quarter section corner of sections 3 and 34 and the quarter section corner of sections 2 and 35 to their true original location, will be officially filed of record in the Oregon State Office, Bureau of Land Management, 729 North East Oregon Street, Portland, Oreg. 97232.

**ROGER F. DIERKING,**  
*Chief, Branch of Records and Data Management.*

[FR Doc. 78-18462 Filed 7-3-78; 8:45 am]

#### [4310-84]

[W-63918]

#### WYOMING

#### Application

JUNE 23, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Co. of Oklahoma City has filed an application for a right-of-way to construct a 6½ inch pipeline for the purpose of transporting natural gas across the following described public lands:

#### SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., T. 93 W.,  
Sec. 2, SE¼SE¼

The proposed pipeline will transport natural gas from the Champlin 242 D-1 in the SW¼ section 11 in a northeasterly direction to a point of connection with the gathering line in section 1, T. 19 N., R. 93 W., Carbon County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

**WILLIAM S. GILMER,**  
*Acting Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 78-18463 Filed 7-3-78; 8:45 am]

#### [4310-03]

#### Heritage Conservation and Recreation Service

#### NATIONAL REGISTER OF HISTORIC PLACES

#### Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before June 23, 1978. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by July 17, 1978.

**WILLIAM J. MORTAGH,**  
*Keeper of the National Register.*

#### CALIFORNIA

#### Alameda County

Oakland, *For-Oakland Theater*, 1807-1829 Telegraph Ave.

#### CONNECTICUT

#### Middlesex County

Essex, *Essex Historic District*, irregular pattern centered on Main St., Middlesex Tpke., and West Ave.

#### DELAWARE

#### New Castle County

Port Penn vicinity, *Hazel Glen*, W of Port Penn on DE 420.

#### DISTRICT OF COLUMBIA

#### Washington

*Anacostia Historic District*, roughly bounded by Maplevue Pl., Martin Luther King Ave., Good Hope Rd., Fendall Pl., W., 15th and High Sts.

#### IDAHO

#### Ada County

Boise, *Alexanders*, 9th and Main Sts.  
Boise, *Boise City National Bank*, 8th and Idaho Sts.  
Boise, *Idaho Building*, Bannock and 8th Sts.  
Boise, *Union Block and Montandon Buildings*, 8th and Idaho Sts.

#### Caribou County

Soda Springs, *Hopkins, William, House*, 300 E. Hooper Ave.

#### KENTUCKY

#### Jessamine County

Nicholasville vicinity, *McClure-Shelby House*, 5 ml. (8 km) E of Nicholasville on KY 169.

#### Scott County

Georgetown vicinity, *Johnson-Pence House*, W of Georgetown off U.S. 460.

#### MISSISSIPPI

#### Adams County

Natchez, *Richmond*, S. Canal St.

#### Claiborne County

Alcorn vicinity, *Belhel Presbyterian Church*, N of Alcorn on MS 552.

#### Grenada County

Grenada, *Grenada Bank*, 223 1st St.

#### Louisa County

Columbus, *Harris-Banks House*, 122 7th Ave. S.  
Columbus, *Weaver Place (Errolton)*, 216 3rd Ave. S.

#### MONTANA

#### Jefferson County

Boulder vicinity, *Basin Historic District*, 9 ml. (14.4 km) W of Boulder on MT 91.

#### Lewis and Clark County

Helena vicinity, *Wassreiter Hotel and Bath Houses*, W of Helena on U.S. 12.

#### Sweetgrass County

Springdale vicinity, *Yellowstone Crossing*, *Bozeman Trail*, NE of Springdale on U.S. 10.

#### NEW HAMPSHIRE

#### Belknap County

East Alton, *First Freewill Baptist Church*, Drew Hill Rd.

#### Cheshire County

Keene, *Cheshire County Courthouse*, 12 Court St.

#### NEW MEXICO

#### Quay County

Montoya, *Richardson Store*, off I-40.

*San Miguel County*

Rociada vicinity, *Pendaries Grist Mill*, 1 mi. (1.6 km) E of Rociada pff NM 105.

*Sierra County*

Arrey vicinity, *Percha Diversion Dam*, 2 mi. (3.2 km) NE of Arrey.

*Taos County*

Tres Piedras, *Tres Piedras Railroad Water Tower*, Off U.S. 285.

## NEW YORK

*Oneida County*

Oriskany Falls, *First Congregational Free Church*, 177 N. Main St.

*Schoharie County*

Cobleskill, *Cobleskill Historic District*, irregular pattern along Washington Ave., Main, Grand, and Elm Sts.

## NORTH CAROLINA

*Franklin County*

Louisburg, *Fuller House*, 307 N. Main St.

## OREGON

*Multnomah County*

Portland, *Beth Israel School*, 1230 SW. Main St.

## SOUTH CAROLINA

*Lexington County*

West Columbia, *New Brookland Historic District*, roughly bounded by Alexander Rd., Augusta, State, Spring, and Meeting Sts.

## TEXAS

*Dallas County*

Lancaster, *Rawlins, Capt. R. A., House*, S. Dallas Ave.

## UTAH

*Carbon County*

Helper, *Helper Commercial District*, bounded by R.R. tracks, Janet, 1st West, and Locust Sts.

*Garfield County*

Hanksville vicinity, *Susan's Shelter*, S of Hanksville.

*Salt Lake County*

Salt Lake City, *B'Nai Israel Temple*, 249 S. 400 East.

*Sanpete County*

Ephraim, *Larsen-Noyes House*, 96 E. Center St.

## VERMONT

*Caledonia County*

Peacham, *Elkins Tavern*, Bailey-Hazen Rd.

## VIRGINIA

*Amelia County*

Chula vicinity, *St. John's Church*, 3.8 mi. (6 km) W of Chula on VA 609.  
Deatonville vicinity, *Farmer House*, 3 mi. (4.8 km) SE of Deatonville on VA 647.

*King William County*

Falls vicinity, *Chericoke*, 3.2 mi. (5.1 km) W of Falls on VA 666.

[FR Doc. 78-18352 Filed 7-3-78; 8:45 am]

[4310-03]

## NATIONAL REGISTER OF HISTORIC PLACES

## Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 7, 1978, part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR part 800.

WILLIAM J. MURTAGH,  
*Keeper of the  
National Register.*

The following list of properties has been added to the National Register of Historic Places since notice was last given in the February 7, 1978, "Federal Register." National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; properties recorded by the Historic American Engineering Record are designated by HAER; properties receiving grants-in-aid for historic preservation are designated by G.

## ALABAMA

*Madison County*

Huntsville, *Hundley House*, 401 Madison St. (5-22-78).

## ALASKA

*Bristol Bay Division*

Kanatak vicinity, *Takli Island Archeological District*, N of Kanatak in Katmai National Monument (5-23-78).

*Kenai-Cook Inlet Division*

Cooper Landing, *Cooper Landing Post Office*, Sterling Hwy. (5-23-78).  
Ninilchik, *Holy Transfiguration of Our Lord Chapel*, Sterling Hwy. (5-22-78).

## ARIZONA

*Apache County*

Chambers vicinity, *Kin Tiel*, 18 mi. (28.8 km) N of Chambers (5-22-78).

*Coconino County*

Page vicinity, *Lonely Dell Ranch Historic District*, SW of Page in Glen Canyon National Recreation Area (5-19-78).

*Gila County*

Globe, *Dominton Hotel*, S. Broad St. (5-22-78).

Globe, *Old Dominton Library*, Murphy St. (5-22-78).

*Navajo County*

Winslow vicinity, *Brigham City*, N of Winslow (6-9-78).

*Yavapai County*

Wickenburg vicinity, *Kay-El-Bar Ranch*, N of Wickenburg on Rincon Rd. (5-22-78).

## ARKANSAS

*Jackson County*

Jacksonport vicinity, *Hickory Grove Church and School*, N of Jacksonport (5-23-78).

*Jefferson County*

Altzheimer vicinity, *Roselawn*, SW of Alzheimer off AR 88 (5-23-78).

## CALIFORNIA

*Alameda County*

Oakland, *Greek Orthodox Church of the Assumption*, 920 Brush St. (5-22-78).

*Amador County*

Fiddletown, *Fiddletown*, Off CA 49 (6-7-78).

*Humboldt County*

Carlotta, *Carlotta Hotel*, Central Ave. (5-23-78).

*Los Angeles County*

Downey, *Rives, James C., House*, 10921 S. Paramount Blvd. (5-22-78).

Los Angeles, *Bullock's Wilshire Building*, 3050 Wilshire Blvd. (5-25-78).

Los Angeles, *Bunche, Ralph J., House*, 1221 E. 40th Pl. (5-22-78).

Los Angeles, *Pan-Pacific Auditorium*, 7600 Beverly Blvd. (6-16-78).

Monrovia, *Aztec Hotel*, 311 W. Foothill Blvd. (5-22-78).

South Pasadena, *Rialto Theatre*, 1019-1023 Fair Oaks Ave. (5-24-78).

Whittier, *Southern Pacific Railroad Station*, 11825 Bailey St. (5-22-78).

*Marin County*

Larkspur, *Dolliver House*, 58 Madrone Ave. (5-22-78).

*Mariposa County*

El Portal, *Track Bus No. 19*, CA 140 (5-22-78).

El Portal, *Yosemite Valley Railroad Caboose No. 15*, CA 140 (5-22-78).

*Napa County*

St. Helena, *St. Helena Catholic Church*, Oak and Tainter Sts. (5-23-78).

St. Helena, *St. Helena High School*, 437 Main St. (5-22-78).

*Orange County*

Santa Ana, *Smith-Tuthill Funeral Parlors*, 518 N. Broadway (5-19-78).

*San Diego County*

San Diego, *Temple Beth Israel*, 1502 2d Ave. (5-22-78) HABS.

**San Luis Obispo County**

San Luis Obispo vicinity, *Corral de Piedra*, S of San Luis Obispo on Price Canyon Rd. (5-22-78).

San Luis Obispo vicinity, *Port San Luis Site*, S of San Luis Obispo (5-22-78).

**Santa Barbara County**

Santa Barbara vicinity, *Hammond's Estate Site*, E of Santa Barbara (5-19-78).

**Santa Clara County**

Morgan Hill, *Villa Mira Monte*, 17860 Monterey Rd. (5-25-78).

**Sonoma County**

Sebastopol vicinity, *Llano Road Roadhouse*, 4353 Gravenstein Hwy. S. (5-22-78).

**Tulare County**

Three Rivers vicinity, *Giant Forest Village-Camp Kaweah Historic District*, N of Three Rivers in Sequoia National Park (5-22-78).

**Tuolumne County**

Lee Vining vicinity, *Great Sierra Mine Historic Site*, W of Lee Vining in Yosemite National Park (5-24-78).

**Ventura County**

Simi vicinity, *Simi Adobe-Strathearn House*, 137 Strathearn Pl. (5-19-78).

**COLORADO****Denver County**

Denver, *Curry-Chucovich House*, 1439 Court Pl. (6-9-78).

Denver, *Moore, Dora, Elementary School*, E. 9th Ave and Corona St. (6-9-78).

**DELAWARE****New Castle County**

Hockessin, *Public School No. 29*, Valley Rd. and Old Lancaster Pike (5-22-78).

Montchanin, *Montchanin Historic District*, DE 100 (6-9-78).

Newark, *Dean, Joseph, & Son Woolen Mill*, Race and Deandale Sts. (5-22-78) HAER.

Yorklyn, *Garrett Snuff Mill*, jct. DE 82 and Yorklyn Rd. (5-22-78) HAER.

**Sussex County**

Laurel vicinity, *Chipman's Mill*, E of Laurel on SR 465 (5-22-78).

Seaford, *Seaford Station Complex*, Nanticoke River at Delaware Railroad Bridge (6-15-78) HAER.

Seaford vicinity, *Hearn and Rawlins Mill*, N of Seaford on U.S. 13A (5-22-78) HAER.

Seaford vicinity, *Lawrence*, N of Seaford on U.S. 13A (5-22-78).

**GEORGIA****Chatham County**

Nicholsonville, *Nicholsonville Baptist Church*, White Bluff Rd. (5-22-78).

Savannah, *First Bryan Baptist Church*, 575 W. Bryan St. (5-22-78).

**Elbert County**

Elberton vicinity, *Banks, Ralph, Place*, N of Elberton off GA 77 (5-22-78).

**Muscogee County**

Columbus, *Spencer, William Henry, House*, 745 4th Ave. (5-23-78).

**Putnam County**

Eatononton vicinity, *Rock Eagle Site*, N of Eatononton off GA 300 (5-23-78).

**HAWAII****Hawaii County**

Halawa, *Tong Wo Society Building*, HI 27 (6-9-78).

Kealahou, *Greenwell Store*, HI 11 (5-22-78).

**IDAHO****Ada County**

Boise, *St. John's Cathedral*, 8th and Hays Sts. (5-24-78).

**Adams County**

Council, *Pomona Hotel*, Main and Moser Sts. (5-22-78).

New Meadows, *Heigho, Col. E. M., House*, ID 55 (5-22-78).

**Idaho County**

Kooskia, *State Bank of Kooskia*, 1 S. Main St. (5-22-78).

**Kootenai County**

Coeur d'Alene, *Coeur d'Alene Masonic Temple*, 525 Sherman Ave. (5-22-78).

**Latah County**

Moscow, *Skattaboe Block*, Main and 4th Sts. (5-22-78).

**Owyhee County**

Homedale vicinity, *Poison Creek Stage Station*, S of Homedale off Jump Creek Rd. (5-22-78).

Murphy vicinity, *Bernard's Ferry*, N of Murphy off ID 78 (5-22-78).

**Payette County**

Payette, *Coughanour Apartment Block*, 700-718 1st Ave. N. (5-23-78).

**Washington County**

Welser, *Haas, Bernard, House*, 377 E. Main St. (5-22-78).

**ILLINOIS****Adams County**

Clayton vicinity, *Roy, John, Site*, S of Clayton (5-22-78).

**Alexander County**

Willard vicinity, *Dogtooth Bend Mounds and Village Site*, S of Willard (5-23-78).

**Bureau County**

Hennepin vicinity, *Hennepin Canal Historic District*, W to Milline then N to Rock Falls vicinity (also in Henry and Whiteside Counties) (5-22-78).

**Champaign County**

Champaign, *Burnham Athenaeum*, 308 W. Church St. (6-7-78).

**Cook County**

Chicago, *South Shore Beach Apartments*, 7321 S. Shore Dr. (6-9-78).

Chicago, *Swift House*, 4500 S. Michigan Ave. (6-9-78).

Chicago, *West Jackson Boulevard District*, roughly bounded by Laflin, Ashland, Adams, and Van Buren Sts. (5-19-78).

Wilmette, *Bahai Temple*, 100 Linden Ave. (5-23-78).

**DuPage County**

Wheaton, *DuPage County Courthouse*, 200 Reber St. (6-7-78).

**Henry County**

Hennepin Canal Historic District. Reference—see Bureau County.

**Madison County**

Alton, *Christian Hill Historic District*, roughly bounded by Broadway, Belle, 7th, Cliff, Bluff, and State Sts. (5-22-78).

**Massac County**

Metropolis, *Curtis, Elijah P., House*, 405 Market St. (6-9-78).

**Morgan County**

Jacksonville, *Jacksonville Historic District*, roughly bounded by Anna, Mound, Finley, Dayton, Lafayette and Church Sts. (6-9-78).

**Union County**

Anna, *Stinson Memorial Library*, 409 S. Main St. (6-9-78).

**Whiteside County**

Hennepin Canal Historic District. Reference—see Bureau County.

**INDIANA****Bartholomew County**

Columbus, *McEwen-Samuels-Marr House*, 524 3rd St. (5-22-78).

**Grant County**

Matthews, *Cumberland Covered Bridge*, SR 1000 over Mississippi River (5-22-78).

**Lake County**

Gary, *Stewart, John, Settlement House*, 1501 Massachusetts St. (6-7-78).

**Marion County**

Indianapolis, *Pierson-Griffiths House*, 1028 N. Delaware St. (5-22-78).

**St. Joseph County**

Notre Dame, *University of Notre Dame: Main and South Quadrangles*, Off I-80/90 (5-23-78).

**Warrick County**

Newburgh, *Old Newburgh Presbyterian Church*, N. State and W. Main Sts. (5-23-78).

**IOWA****Davis County**

Bloomfield, *Findley, William, House*, 302 E. Franklin St. (6-9-78).

**Floyd County**

Charles City, *Dodd, A.B.C., House*, 310 3rd Ave. (5-22-78).

**Lee County**

Keokuk, *Weess, Frank J., House*, 224-226 Morgan St. (5-22-78).

**Plymouth County**

Le Mars, *Thoren Hall*, Westmar College campus, 10th St., SE. (5-22-78).

**Polk County**

Des Moines, *Old Main, Grand View College*, 1200 Grandview Ave. (5-23-78).

## NOTICES

*Van Buren County*

Keosauqua, *Pearson, Franklin, House*, Dodge St. (5-22-78).

*Winneshiek County*

Decorah vicinity, *Locust School*, N of Decorah (5-22-78).

## KANSAS

*Clark County*

Ashland vicinity, *Cimarron Redoubt*, S of Ashland (5-23-78).

## KENTUCKY

*Edmonson County*

Park City vicinity, *Mill Hole Farm*, W of Park City off U.S. 31W (5-22-78).

*Jefferson County*

Louisville vicinity, *Herr-Rudy Family Houses*, 520 Old Stone Lane, 4319 and 4417 Westport Rd., 612 Rudy Lane, 726 Waterford Rd. 1823 Ballard Mill Lane, and 1705 Lynn Way (5-19-78).

*Scott County*

Georgetown, *Georgetown East Main Street Residential District*, irregular pattern along Main St. between Warrendale Ave. and Mulberry St. (6-7-78).

## LOUISIANA

*East Baton Rouge Parish*

Baton Rouge, *Louisiana State Capitol Building and Gardens*, Capitol Dr. (6-9-78).

*Natchitoches Parish*

Robellne vicinity, *Los Adaes Historic Site*, NE of Robellne off LA 6 (6-7-78).

*St. Bernard Parish*

St. Bernard vicinity, *Magnolia Mound*, E of St. Bernard (5-22-78).

## MAINE

*Cumberland County*

Portland, *Brown, J. B., Memorial Block*, Congress and Casco Sts. (5-23-78).

*Knox County*

Rockland, *Main Street Historic District*, Main St. from Limerock to Winter Sts. (6-7-78).

*Lincoln County*

Boothbay vicinity, *Damariscove Island Archeological Site*, S of Boothbay (5-22-78).

*Oxford County*

Newry vicinity, *Lower Sunday River School*, SW of Newry on Sunday River Rd. (5-23-78).

## MARYLAND

*Anne Arundel County*

Elkridge vicinity, *Elkridge Site*, E of Elkridge (5-22-78).

*Carroll County*

Union Bridge vicinity, *Hard Lodging*, 1 mi. (1.6 km) E of Union Bridge on Ladiesburg Rd. (6-9-78).

*Cecil County*

Port Deposit, *Port Deposit*, E bank of Susquehanna River 10 mi. (16 km) S of Mason-Dixon Line (5-23-78).

*Prince Georges County*

Oxon Hill, *Oxon Hill Manor*, 6701 Oxon Hill Rd. (6-9-78) HABS.

*Wicomico County*

Whitehaven vicinity, *Yellow Brick House*, NW of Whitehaven off MD 349 (5-22-78).

## MASSACHUSETTS

*Bristol County*

Swansea vicinity, *Luther Store*, W of Swansea at 160 Old Warren Rd. (5-22-78) HABS.

*Middlesex County*

Newton, *Ware Paper Mill*, 2276 Washington St. (5-22-78).

## MICHIGAN

*Alger County*

Grand Marais vicinity, *Au Sable Light Station*, W of Grand Marais (5-23-78).

*Washtenaw County*

Ann Arbor, *Main Street Post Office*, 220 N. Main St. (5-22-78).  
Ann Arbor, *University of Michigan Central Campus Historic District*, University of Michigan campus (6-15-78).

## MINNESOTA

*Dakota County*

Hastings, *Latto, Rudolph, House*, 620 Ramsey St. (5-23-78).  
Hastings, *Methodist Episcopal Church*, 8th and Vermillion Sts. (6-7-78).  
Hastings, *Thompson-Fasbender House*, 649 W. 3d St. (5-22-78).

*Goodhue County*

Stanton vicinity, *Miller, Harrison, Farmhouse*, E of Stanton on MN 19 (5-22-78).

*Kittson County*

Lake Bronson vicinity, *Lake Bronson Archeological Site*, SE of Lake Bronson (5-22-78).

*Meeker County*

Litchfield, *Octagon Cottage*, off MN 22 (5-22-78).

## MISSISSIPPI

*Adams County*

Natchez, *Henderson-Britton House*, 215 S. Pearl St. (6-9-78).

*Carroll County*

North Carrollton vicinity, *Cotesworth*, N of North Carrollton on Old Grenada Rd. (6-9-78) HABS.

*Loundes County*

Columbus, *Brownrigg-Harris-Kennebrew House*, 515 9th St. N. (5-22-78) HABS.  
Columbus vicinity, *James Creek No. 1 Site*, S of Columbus (5-23-78).

*Union County*

Ingomar vicinity, *Ingomar Mound*, S. of Ingomar (6-9-78).

*Warren County*

Vicksburg, *Church of the Holy Trinity*, South and Monroe Sts. (5-22-78).

## MISSOURI

*Jackson County*

Kansas City, *Disney, Walt, House and Garage*, 3028 Bellefontaine Ave. (5-22-78).  
Kansas City, *McConahay Building*, 1121-1131 E. 31st St. (5-22-78).  
Kansas City, *Old Town Historic District*, roughly bounded by Independence Ave., 2d, Delaware and Walnut Sts. (6-7-78).  
Kansas City, *Row House Building*, 1-7 E. 34th St. and 3401 Main St. (5-22-78).

*Platte County*

Platte City, *Krause, Frederick, Mansion*, 3d and Harrel Ferrel Dr. (5-22-78).  
St. Louis (independent city) *Chatillon-De-Menil House*, 3352 DeMenil Pl. (6-9-78) HABS.  
St. Joseph's Roman Catholic Church, 1220 N. 11th St. (5-19-78).

## MONTANA

*Flathead County*

West Glacier vicinity, *Lewis Glacier Hotel*, N of West Glacier (5-22-78).

## NEBRASKA

*Dodge County*

Fremont, *Osterman and Tremaine Building*, 455 N. Broad St. (5-23-78).

*Douglas County*

Omaha, *Omaha Public Library*, 1823 Harney St. (5-22-78).

*Hall County*

Grand Island, *Hargis, Andrew M., House*, 1109 W. 2nd St. (6-9-78).

*Nance County*

Genoa vicinity, *U.S. Indian Industrial School*, NE 22 (5-22-78).

*Red Willow County*

McCook, *Stutton, H. P., House*, 602 Norris Ave. (5-22-78).

*Thomas County*

Halsey vicinity, *Bessey Nursery*, W of Halsey off NE 2 (5-24-78).

## NEVADA

*Churchill County*

Frenchman vicinity, *Cold Springs Pony Express Station Ruins*, 25 mi. (40 km) NE of Frenchman off U.S. 50 (5-16-78).

## NEW HAMPSHIRE

*Sullivan County*

Cornish City, *Kenyon Bridge*, off NH 12A at Mill Brook and Town House Rd. (5-22-78).  
Plainfield vicinity, *Blow-Me-Down Covered Bridge*, S of Plainfield off NH 12A (5-19-78).

## NEW JERSEY

*Atlantic County*

Atlanta City, *Shelburne Hotel*, Michigan Ave. and the Boardwalk (5-19-78).  
Smithville, *Smithville Apothecary*, off Moss Mill Rd. (6-9-78).

**Burlington County**

Pemberton, *North Pemberton Railroad Station*, Hanover St. (5-23-78).  
 Roebling, *Roebling Historic District*, roughly bounded by Roebling Park, South St., 2nd and 8th Aves., Roland St., Alden, Norman Railroad, and Amboy Aves. (5-22-78).  
 Willingboro vicinity, *Coopertown Meetinghouse*, NW of Willingboro on Cooper St. (5-22-78).

**Essex County**

Newark, *Wickcliffe Presbyterian Church*, 111 13th Ave. (5-22-78).

**Monmouth County**

Long Branch, *Elberon Railroad Station*, Lincoln Ave. (6-9-78).

**Somerset County**

Basking Ridge vicinity, *Stirling, Lord, Manor Site*, SE of Basking Ridge at 96 Lord Stirling Rd. (5-22-78).

**NEW MEXICO****Grant County**

Silver City, *Silver City Historic District*, roughly bounded by Black, College, Hudson, and Spring Sts. (5-23-78).

**McKinley County**

Fort Wingate, *Fort Wingate Historic District*, NM 400 (5-26-78).

**NEW YORK****Rensselaer County**

Hoosick vicinity, *Tibbitts House*, S of Hoosick at jct. of NY 22 and NY 7 (5-22-78).

**Schenectady County**

Rotterdam Junction vicinity, *Mabee House*, S of Rotterdam Junction on NY 5S (5-22-78) HABS.  
 Schenectady vicinity, *Seeley Farmhouse*, 2 Freeman's Bridge Rd. (5-23-78).

**NORTH CAROLINA****Ashe County**

Jefferson vicinity, *Poe Fish Weir*, E of Jefferson (5-22-78).

**Forsyth County**

Winston-Salem, *Shamrock Mills*, 3rd and Marshall Sts. (5-23-78) HAER.

**Mecklenburg County**

Charlotte, *Jonas, Charles R., Federal Building*, 401 W. Trade St. (6-7-78).

**Warren County**

Norlina vicinity, *Hawkins, William J., House*, W of Norlina on SR 1103 (5-22-78).

**NORTH DAKOTA****Mercer County**

Riverdale vicinity, *High Butte Effigy and Village Site*, S of Riverdale (5-22-78).

**OHIO****Athens County**

East Millfield vicinity, *Sunday Creek Coal Company Mine No. 6*, E of East Millfield (5-23-78).

**Brown County**

Georgetown, *Georgetown Historic District*, roughly bounded by Water Alley, Pleasant, Short, and State Sts. (5-23-78).

**Cuyahoga County**

Cleveland, *Superior Avenue Viaduct*, Superior Ave. (6-9-78) HAER.  
 Independence vicinity, *Terra Vista Archeological District*, N of Independence (5-23-78).  
 Seven Hills, *Gabel, Daniel, House*, 1102 E. Ridgewood Dr. (5-23-78).

**Fairfield County**

Baltimore vicinity, *Miller Farm*, S of Baltimore on Pleasantville Rd. (5-22-78).

**Franklin County**

Columbus, *Columbus Near East Side District*, roughly bounded by Parsons Ave., Broad and Main Sts., and the railroad tracks (5-19-78).

**Hamilton County**

North Bend vicinity, *Warder, John Aston, House*, E of North Bend off Shady Lane (5-19-78).

**Jackson County**

Oak Hill, *Oak Hill Welsh Congregational Church*, 412 E. Main St. (5-23-78).

**Lake County**

Madison vicinity, *Ladd's Tavern*, 5466 S. Ridge Rd. (5-22-78).

**Lorain County**

Sheffield, *Garfield, Halsey, House*, 4789 Detroit Rd. (5-22-78).

**Lucas County**

Maumee, *Griswold, Peck, House*, 223 E. Broadway (5-22-78).  
 Maumee, *Hanson House*, 405 E. Broadway (5-22-78).

**Marion County**

Caledonia vicinity, *Caledonia Bowstring Bridge*, N of Caledonia (5-23-78).

**Montgomery County**

Englewood vicinity, *Martindale, Samuel, House*, NE of Englewood off U.S. 40 (5-22-78).  
 Germantown, *Rohr, David, Mansion and Carriage House*, Astoria Rd. and OH 725 (5-22-78).

**Muskingum County**

Zanesville, *Christman, Nicholas, House*, 532 Wayne Ave. (5-22-78).  
 Zanesville, *Harris, William B., House*, 1320 Newman Dr. (5-22-78).

**OKLAHOMA****Kiowa County**

Hobart, *Hobart City Hall*, Main and 3rd Sts. (5-22-78).

**PENNSYLVANIA****Allegheny County**

Pittsburgh, *Frick Building and Annex*, 437 Grant St. (5-22-78).

**Bucks County**

Ottsville, *Red Hill Church and School*, Durham Rd. (5-22-78).

**Centre County**

Phillipsburg, *Union Church and Burial Ground*, E. Presque Isle St. (5-23-78) HABS.

**Columbia County**

Catawissa, *Catawissa Friends Meetinghouse*, South and 3rd Sts. (6-9-78) HABS.

**Delaware County**

Chester, *Old Main and Chemistry Building*, 14th St. between Melrose Ave. and Walnut St. (5-22-78).

**Franklin County**

Chambersburg, *Memorial Fountain and Statue*, Memorial Sq. (5-19-78).

**Lackawanna County**

Dalton, *Dalton House*, E. Main St. (5-22-78).  
 Scranton, *Albright Memorial Building*, N. Washington Ave. and Vine St. (5-22-78).

**Montgomery County**

King of Prussia, *Poplar Lane*, 1000 Boxwood Court (5-22-78).

**Philadelphia County**

Philadelphia, *Thirtieth Street Station*, W. River Dr., Market, 30th, and Arch Sts. (6-7-78).

**Schuylkill County**

Pottsville, *Cloud Home*, 351 S. 2nd St. (5-22-78).  
 Pottsville, *O'Hara, John, House*, 606 Mahantongo St. (5-22-78).

**Susquehanna County**

Montrose, *Mulford, Sylvanus, House*, 65 Church St. (5-22-78).

**York County**

York, *York Central Market*, Philadelphia and Beaver Sts. (6-9-78).

**RHODE ISLAND****Providence County**

Providence, *Sprague, David, House*, 263 Public St. (5-23-78).

**SOUTH DAKOTA****Codington County**

Watertown vicinity, *Oliver Place*, N of Watertown off U.S. 81 (5-23-78).

**Edmunds County**

Ipswich, *Ipswich State Bank*, 1st Ave. and Main St. (5-22-78).

**Lawrence County**

Spearfish vicinity, *Spearfish Hatchery*, S of Spearfish off U.S. 14 (5-19-78).

**TENNESSEE****Franklin County**

Winchester, *Bank of Winchester Building*, 1st Ave. (5-23-78).

**Hamblen County**

Morristown vicinity, *Barton Springs*, 3 mi. (4.8 km) E of Morristown (5-22-78).

**Robertson County**

Springfield, *Robertson County Courthouse*, Public Sq. (5-22-78).

## NOTICES

*Shelby County*

Memphis, *Elmwood Cemetery Office and Entrance Bridge*, 824 S. Dudley St. (5-22-78).

*Sullivan County*

Kingsport vicinity, *Rock Ledge*, 117 Stuffle Pl. (5-24-78).

## TEXAS

*Bell County*

Salado, *Rose, Maj. A. J., House*, Wm. Rose Way and Royal St. (5-22-78).

*El Paso County*

El Paso, *First Mortgage Company Building*, 109 N. Oregon St. (6-13-78).

*Garza County*

Post vicinity, *Post West Dugout*, W of Post (5-22-78).

*Gonzales County*

Leesville vicinity, *Leesville Schoolhouse*, E. of Leesville off TX 80 (5-25-78).

*Gregg County*

Longview, *Northcutt House*, 313 S. Fredonia St. (5-22-78).

*Harris County*

Houston, *Mansfield Street Archeological Site*, Mansfield St. (5-22-78).

*Hutchinson County*

Stinnet vicinity, *Adobe Walls*, E of Stinnet (5-22-78).

*Jefferson County*

Beaumont, *Idle Hours*, 1608 Orange St. (5-22-78).

*Tarrant County*

Fort Worth, *Benton, M. A., House*, 1730 6th Ave. (5-22-78).

Fort Worth, *Texas and Pacific Terminal Complex*, Lancaster and Throckmorton Sts. (5-26-78).

*Taylor County*

Buffalo Gap, *Old Taylor County Courthouse and Jail*, William St. between North and Elm Sts. (6-9-78).

*Terrell County*

Dryden vicinity, *Geddis Canyon Rock Art Site*, NE of Dryden (5-22-78).

*Uvalde County*

Uvalde, *Grand Opera House*, E. North and N. Getty Sts. (5-22-78).

## UTAH

*Salt Lake County*

Holladay, *Brinton, David B., House*, 1981 E. 4800 South (5-22-78).

Salt Lake City, *Utah Savings & Trust Company Building*, 235 S. Main St. (5-22-78).

*Summit County*

Park City, *LDS Park City Meetinghouse*, 424 Park Ave. (5-22-78).

*Utah County*

Provo, *Wentz, Peter, House*, 575 N. University Ave. (4-26-78).

*Washington County*

Springdale vicinity, *Cable Mountain Draw Works*, N of Springdale in Zion National Park (5-24-78).

## VIRGIN-ISLANDS

*St. Croix Island*

Christiansted vicinity, *Estate St. John*, 3 mi. (4.8 km) NS of Christiansted (6-9-78).

*St. John Island*

Cruz Bay vicinity, *Mary Point Estate*, NE of Cruz Bay (5-22-78).

## VIRGINIA

*King William County*

Sweet Hall vicinity, *Windsor Shades*, SW of Sweet Hall off VA 30 (5-22-78) HABS.

## WASHINGTON

*King County*

Seattle, *Home of the Good Shepherd*, Sunny-side N. and 50th St. (5-23-78).

Seattle, *Nippon Kan*, 622 S. Washington St. (5-22-78).

*Klickitat County*

Husum vicinity, *Rattlesnake Creek Site*, NE of Husum (5-22-78).

*Lincoln County*

Wilbur vicinity, *Goose Creek Rock-shelter*, E of Wilbur (5-22-78).

*Pierce County*

Gig Harbor vicinity, *Glencove Hotel*, W of Gig Harbor off WA 302 (5-22-78).

Wilkeson vicinity, *Walker Cut Stone Company*, E of Wilkeson (6-7-78).

*Spokane County*

Spokane, *Hyde Building and Annex*, W. 611 ½ Riverside Ave. (2-8-78).

*Thurston County*

Olympia, *Cloverfields*, 1100 Carlyon Ave., SE. (5-22-78).

Olympia, *Patnude, Charles, House*, 1239 8th Ave. (5-22-78).

Tumwater, *Tumwater Historic District*, roughly bounded by I-5, Capitol Way and Capitol Lake (5-22-78).

## WEST VIRGINIA

*Cabell County*

Green Bottom vicinity, *Jenkins, Gen. Albert Gallatin, House*, E of Green Bottom (5-22-78).

*Lewis County*

Weston, *Bennett, Jonathan M., House*, Court Ave. (6-9-78).

*Wood County*

Parkersburg, *Cook House*, 1301 Murdoch Ave. (6-7-78).

## WISCONSIN

*Dane County*

Madison, *Lougee, George A., House*, 620 S. Ingersoll St. (6-7-78).

*Dodge County*

Fox Lake, *Fox Lake Railroad Depot*, Cordelia St. and S. College Ave. (5-22-78).

*Milwaukee County*

Milwaukee, *Kalvelage, Joseph B., House*, 2432 W. Kilbourn Ave. (5-23-78).

*Sheboygan County*

Kohler, *American Club*, High St. (5-22-78).

*Winnebago County*

Omro vicinity, *Cole Watch Tower*, W of Omro on WI 21 (6-9-78).

## WYOMING

*Carbon County*

Medicine Bow, *Virginian Hotel*, U.S. 30/287 (5-22-78).

*Fremont County*

Riverton, *Riverton Railroad Depot*, 1st and Main Sts. (5-22-78).

\* \* \* \* \*

The following is a correction to a property previously listed in the FEDERAL REGISTER.

## OHIO

*Trumbull County*

Warren, *Mahoning Avenue Historic District*, Mahoning Ave. between Perkins Dr. and High St. (10-26-71) (boundary increase 5-22-78).

\* \* \* \* \*

Determinations of eligibility are made in accordance with the provisions of 36 CFR 63, procedures for requesting determinations of eligibility, under the authorities in section 2 (b) and 1 (3) of Executive Order 11593 and section 106 of the National Historic Preservation Act of 1966, as amended, as implemented by the Advisory Council on Historic Preservation's procedures, 36 CFR Part 800. Properties determined to be eligible under section 63.3 of the procedures for requesting determinations of eligibility are designated by 63.3.

Properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on an eligible property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

The following list of additions, deletions, and corrections to the list of properties determined eligible for inclusion in the National Register is intended to supplement the cumulative version of that list published in February of each year.

**ALABAMA***Mobile County*

Creola vicinity, *Dead Lake Site (1 Mb 95)* (63.3).

**ALASKA***Fairbanks Division*

Fairbanks, *U.S. Post Office and Courthouse*, Cushman St. and 3rd Ave. (63.3).

*Kodiak Division*

Karluk vicinity, *Archeological Site KAR-037* (63.3).

**CALIFORNIA***San Francisco County*

San Francisco, *Fleishhacker Pool*, SE corner of Sloat Blvd. and the Great Hwy. (63.3).

*Siskiyou County*

Forks of Salmon, *Fong Wah Cemetery (CA-Sis-414)*.  
Klamath National Forest, *Sawyers Bar Catholica Church*.

**COLORADO***Grand County*

Estes vicinity, *Shadow Mountain Lookout*, Rocky Mountain National Park.

*Larimer County*

Estes vicinity, *Leiffer House*, CO 7.

**FLORIDA***Dade County*

Hialeah, *Hialeah Racecourse*, Bounded by East Coast RR., E. 4th and Palm Aves. and E. 32nd St. (63.3).  
Miami, *Dade County Courthouse*, 73 W. Flagler St. (63.3).  
Miami, *Florida East Coast Railway Freight House*, 400 SW. 1st Ave. (63.3).

**GEORGIA***Elbert County*

Elberton vicinity, *Eureka House*, 5.5 mi. (8.8 km) E of Elberton (63.3).

**INDIANA***Vanderburgh County*

Evansville, *Washington Avenue Historic District*, Washington Ave. between Parrett St. and Evans Ave.

**IOWA***Polk County*

Des Moines, *Carbarn*, 24th and Ingeroll Ave. (63.3).

**LOUISIANA***Vernon Parish*

Fort Polk, *Archeological Site 16-Sa-50* (63.3).

**MARYLAND***Harford County*

Havre de Grace vicinity, *Old Post Road Bridge*, MD 7-A.

**MASSACHUSETTS***Barnstable County*

Provincetown, *Freeman's Wharf*, 125 Commercial St.

*Bristol County*

Mansfield, *Norton Reservoir Prehistoric District*, (63.3).

Norton, *Bay Street Prehistoric District* (63.3).

Norton, *Newcomb Street Site (7MP)* (63.3).  
Raynham vicinity, *Rozenas I/II Site (7HP-7IP)* (63.3).

Taunton vicinity, *Johnson Field Historic Site (7TH)* (63.3).

Taunton vicinity, *Snake River East Site (7DDP)* (63.3).

Taunton vicinity, *Snake River West Site (7GP)* (63.3).

Taunton vicinity, *Wilbore Historic Site (7BH)* (63.3).

*Plymouth County*

Bridgewater vicinity, *Double P Site*.

**MICHIGAN***Bay County*

Bay City, *Midland Street Historic District*, E. Midland St. between Catherine and Litchfield Sts. (63.3).

**MISSOURI***Jackson County*

Kansas City, *Rockford School*, Raytown Rd. (63.3).

Lees Summit, *Longview Farm*, Off Raytown Rd. (63.3).

**MONTANA***Big Horn County*

Spring Creek Mine vicinity, *24 BH 1045* (63.3).

Spring Creek Mine vicinity, *24 BH 1046* (63.3).

Spring Creek Mine vicinity, *24 BH 1052* (63.3).

Spring Creek Mine vicinity, *24 BH 1583* (63.3).

Spring Creek Mine vicinity, *24 BH 1589* (63.3).

Spring Creek Mine vicinity, *24 BH 1591* (63.3).

Spring Creek Mine vicinity, *24 BH 1593* (63.3).

Spring Creek Mine vicinity, *24 BH 1595* (63.3).

Spring Creek Mine vicinity, *24 BH 1597* (63.3).

Spring Creek Mine vicinity, *24 BH 1602* (63.3).

Spring Creek Mine vicinity, *24 BH 1606* (63.3).

Spring Creek Mine vicinity, *24 BH 1609* (63.3).

Spring Creek Mine vicinity, *24 BH 1610* (63.3).

Spring Creek Mine vicinity, *24 BH 1614* (63.3).

Spring Creek Mine vicinity, *24 BH 1618* (63.3).

Spring Creek Mine vicinity, *24 BH 1619* (63.3).

*Powder River County*

Moorhead vicinity, *Reynold's Battlefield Historic Site*, Moorhead County Rd. (63.3).

**NEW HAMPSHIRE***Rockingham County*

Portsmouth, *Fort Washington*, Pierce Island (63.3).

**NEW JERSEY***Bergen County*

Mahwah, *Hopper Gristmill and Sawmill* (63.3).

**NEW MEXICO***Eddy County*

Carlsbad vicinity, *Archeological District*.

*McKinley County*

Gallup vicinity, *McKinley Mine Archeological District*.

**NEW YORK***Onondaga County*

Elbridge, *Elbridge Park Industrial Archeology District*.

**OHIO***Athens County*

Nelsonville, *Dew House (Dew Hotel)*, Public Sq. (63.3).

**OKLAHOMA***Atoka County*

Wapanucka vicinity, *Archeological Site At-172*.

**TENNESSEE***Hickman County*

Greenfield Bend vicinity, *Shelby Bend Archeological District*.

**TEXAS***Brewster County*

Big Bend National Park, *Archeological Site 41BS41* (63.3).

Big Bend National Park, *Archeological Site 41BS609* (63.3).

*Comanche County*

Rush Creek vicinity, *Archeological Site 41 CJ 62* (63.3).

*Jim Wells County*

Chilipin vicinity, *Archeological Site 41 JW 8*.

**WASHINGTON***Douglas County*

Bridgeport vicinity, *Rufus Woods Archeological District* (63.3).

\* \* \* \* \*

The following is a list of corrections to properties previously listed in the Federal Register as determined eligible for inclusion in the National Register of Historic Places:

**INDIANA***Morgan County*

Indianapolis vicinity, *Parker Covered Bridge*, SR 700 S., spans county line (also

in Putnam County) (63.3) (incorrectly listed in Marion County).

# **MARYLAND**

*Baltimore (independent city)*

Federal Hill-Riverside Park Historic District.  
Hollins-Lombard Historic District.  
Old Western Police Station.  
Ridgely's Historic District.  
St. Paul's Cemetery.  
(All were formerly listed in Baltimore County).

[FR Doc. 78-18353 Filed 7-3-78; 8:45 am]

## **[4510-43]**

### **DEPARTMENT OF LABOR**

Mine Safety and Health Administration

[Docket No. M-78-31-M]

#### **RIO BLANCO OIL SHALE CO.**

*Petition for Modification of Application of Mandatory Safety Standard*

Notice is hereby given that Rio Blanco Oil Shale Co., Dayton Commons, 9725 East Hampden Avenue, Denver, Colo. 80231, has filed a petition to modify the application of 30 CFR 57.4-58 (fire prevention and control), to its Tract C-a Mine, located in Rio Blanco County, Colo., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) The production of shale oil by a modified in-situ method is predicated on the excavation and construction of retorts underground and burning part of the oil shale in place.

(2) Petitioner's development plan calls for the application of a new technology in which underground combustion will be carefully monitored and regulated.

#### **REQUEST FOR COMMENTS**

Persons interested in this petition may furnish written comments on or before August 7, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: June 28, 1978.

ROBERT B. LAGATHER,  
*Assistant Secretary  
for Mine Safety and Health.*

[FR Doc. 78-18511 Filed 7-3-78; 8:45 am]

## **[4510-43]**

[Docket No. M-78-75-C]

### **UNITED STATES STEEL CORP.**

*Petition for Modification of Application of Mandatory Safety Standard*

Notice is hereby given that United States Steel Corp., 600 Grant Street, Pittsburgh, Pa., has filed a petition to modify the application of 30 CFR 75.1719 (illumination), to its Concord Mine, located in Jefferson County, Ala., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Mining equipment at the above mine is provided with 250 volt D.C. electrical power. No A.C. power is available.

(2) Petitioner has been advised by knowledgeable electrical engineers and by manufacturers of permissible lighting fixtures that D.C.-powered permissible lighting fixtures are not reliable due to a frequent failure of power supply components. Such failure is caused by severe fluctuations in supply voltages, so-called "spikes," which may subject the aforesaid components to voltages up to 100 times the normal operating level.

(3) Petitioner is not aware of any presently available reliable, field-tested, approved D.C. power supply components.

(4) Petitioner believes that the application of the safety standards set forth in § 75.1719, insofar as it requires the installation of permissible lighting fixtures in working places, will result in a diminution of safety to the miners in the Concord Mine for the following reasons:

a. Failure of the prescribed lighting system while self-propelled mining equipment is being operated in a working place will cause an abrupt, virtually instantaneous change in luminous intensity from not less than 0.06 foot-lamberts to some significantly lower intensity furnished by miners' cap lamps in the working place. For some interminate period of time thereafter, until the miners' eyes adjust to the lower intensity, said miners' ability to operate self-propelled mining equipment safely will be adversely affected, and their ability to observe moving equipment and changing roof and rib conditions will be impaired.

b. Frequent failures of the prescribed lighting system will disrupt the teamwork of the section crews, and interrupt the performance of required safety examinations and the correction of hazards found during the course of such examinations.

#### **REQUEST FOR COMMENTS**

Persons interested in this petition may furnish written comments on or

before August 7, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: June 28, 1978.

ROBERT B. LAGATHER,  
*Assistant Secretary for  
Mine Safety and Health.*

[FR Doc. 78-18512 Filed 7-3-78; 8:45 am]

## **[4510-26]**

Office of the Secretary

**PRIVACY ACT OF 1974**

**Supplemental Notice of Privacy Act Exemptions**

Pursuant to section (k) of the Privacy Act of 1974, it is proposed to adopt exemptions for a previously noticed system of records, DOL/OSHA-1 (41 FR 5476). The reasons for, and the scope of the exemptions are set forth below.

The Department invites public comment on this notice. Interested persons are invited to submit written data, views and arguments to Docket Officer, Room S-6212, Docket No. H-114, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210 on or before August 4, 1978. Written material received from the public through said date will be considered by the Department before taking action on a final notice. Submissions will be available for public inspection at the above address during normal working hours. Signed in Washington, D.C. this 28th day of June, 1978.

RAY MARSHALL,  
*Secretary of Labor.*

Notice is hereby given by the Department of Labor that it proposes to adopt exemptions for the following previously noticed systems of records: DOL/OSHA-1 Discrimination Complaint File.

#### **DOL/OSHA-1**

System name:

**Discrimination Complaint File.**

System location:

For Standard Federal Region I through V, at the following address: Operations Review Office, U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building, Room 1110A, Charles Center, 31 Hopkins Plaza, Baltimore, Md. 21201, for Standard Region VI through X, at the following address: Operations Review Office, U.S. Department of Labor, Occupational Safety and Health Administra-



tion, Room 3100, Federal Office Building, 909 First Avenue, Seattle, Wash. 98174.

Categories of individuals covered by the system:

Individuals who have filed complaints pursuant to section 11(c) of the Occupational Safety and Health Act.

Categories of records in the system:

Case files compiled in connection with investigations of discrimination complaints.

Authority for maintenance of the system:

Section 11(c) of the Occupational Safety and Health Act (Pub. L. 91-596).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

None.

Storage:

Manual files.

Retrievability:

By complainant's name or case identification number.

Safeguards:

Locked file cabinets.

Retention and disposal:

Retained for 3 years after completion of investigation then forwarded to GSA Records Center.

System manager(s) and address:

Operations Review Officer at address where system is located.

Notification procedures:

To Systems Managers at above address.

Record access procedures:

As above.

Contesting record procedures:

As above.

Record source categories:

Complaints filed by individuals alleging discrimination and information compiled in connection with investigations of alleged acts of discrimination.

Systems exempted from certain provisions of the act:

In accordance with paragraph (k)(2) of the Privacy Act, investigatory material compiled for law enforcement purposes which is maintained in the Discrimination Complaint File is exempt from paragraphs (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of 5 U.S.C. 552a.

Disclosure of information contained in this file could threaten investigators, witnesses, informants and their

families with adverse consequences and could hinder effective enforcement of the Occupational Safety and Health Act. In order to conduct effective investigations it is necessary to guarantee the confidentiality of information being collected. Release of such information would constitute a breach of the guarantee of confidentiality, could lead to the intimidation, harassment of dismissal from employment of those involved, and would discourage those contacted in future investigations from cooperating with investigators.

[FR Doc. 78-18555 Filed 7-3-78; 8:45 am]

## [4510-30]

### NATIONAL COMMISSION FOR MANPOWER POLICY MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will sponsor a 3-day working conference on Recent European Manpower Policies at the Harrison Conference Center of Glen Cove, Dosoris Lane, Glen Cove, N.Y. The conference will begin at 12:30 p.m. on July 19 and adjourn at 12:30 p.m. on July 21, 1978.

The National Commission for Manpower Policy was established pursuant to title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92-203). The act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor, and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's manpower policies and programs.

The agenda will cover a variety of labor market related issues, selective employment policy measures, and possible new directions for policy.

Members of the general public or other interested individuals may attend the Commission meeting. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Director no later than 2 days before and 7 days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written applications must be submitted to the Director of the Commission 3 days before the meeting. This application

shall identify the following: The name and address of the applicant; the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter; and shall include a justifying statement as to why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the meeting. Oral presentations shall be limited to statements of fact and views and shall not include any questions of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers, and other documents prepared for the meeting will be available for public inspection 5 working days after the meeting at the Commission's headquarters located at 1522 K Street NW., Room 300, Washington, D.C.

Signed at Washington, D.C., this 30th day of June 1978.

PATRICK O'KEEFE,  
Deputy Director.

[FR Doc. 78-18619 Filed 7-3-78; 8:45 am]

## [7590-01]

### NUCLEAR REGULATORY COMMISSION

#### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON ELECTRICAL SYSTEMS, CONTROL AND INSTRUMENTATION

##### Meeting

The ACRS Subcommittee on Electrical Systems, Control and Instrumentation, will hold a meeting on July 20, 1978, at the Quality Inn/LAX, 5249 West Century Boulevard, Los Angeles, Calif., to review the capability of loose-parts-monitoring systems in nuclear powerplants. Notice of this meeting was published in the FEDERAL REGISTER on May 17 and June 16, 1978 (43 FR 21395 and 26162).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972) oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Thursday, July 20, 1978, 11:30 a.m. until the conclusion of business.

The subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, Atomics International, Inc., General Electric Co., Washington Public Power Supply Systems, Nebraska Public Power District, and Sacramento Municipal Utility District, and their consultants, concerning the capability of loose-parts-monitoring systems to detect loose parts in nuclear powerplants and the need for such systems to be installed. Other companies or individuals wishing to provide a presentation on the use of loose-parts-monitoring systems are asked to call Mr. Gary Quittschreiber, ACRS Senior Staff Engineer (202-634-1374) so that they may be included on the presentation schedule for this or subsequent meetings on this subject.

It may be necessary for the subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be re-

quired, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Gary R. Quittschreiber (telephone 202-634-1374) between 8:15 a.m. and 5 p.m., e.s.t.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Dated: June 29, 1978.

JOHN C. HOYLE,  
Advisory Committee  
Management Officer.

[FR Doc. 78-18575 Filed 7-3-78; 8:45 am]

[7590-01]

#### APPLICATIONS FOR LICENSES TO EXPORT NUCLEAR FACILITIES OR MATERIALS

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses during the period of June 19 to June 23, 1978. A copy of each application is on file in the Nuclear Regulatory Commission's public document room located at 1717 H Street NW., Washington, D.C.

Dated this day, June 27, 1978, at Bethesda, Md.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,  
Assistant Director, Export/  
Import and International  
Safeguards, Office of Interna-  
tional Programs.

Name of applicant, date of application, date received, and application number	Material in kilograms or reactor type and power level	Enrichment (in percent)	End-use	Country of destination
Transnuclear, Inc., June 14, 1978, June 16, 1978, XSNM01328.	11,056 uranium	4.335	Fuel for S.E.N.A. reactor	France.
Edlow International Co., June 19, 1978, June 21, 1978, XSNM01332.	22.5 uranium	76.5	Fuel for the Safari Research Reactor.	South Africa.
Transnuclear, Inc., June 22, 1978, June 23, 1978, XSNM01333.	20,050 uranium	93.3	Fuel for HFR Potten reactor	Netherlands.
Transnuclear, Inc., June 22, 1978, June 23, 1978, XSNM01334.	779.0 uranium	4.05	Fuel for WR-1 reactor	Canada.

[FR Doc. 78-18435 Filed 7-3-78; 8:45 am]

[3110-01]

#### OFFICE OF MANAGEMENT AND BUDGET

##### LISTS OF REQUESTS

##### Clearance of Reports

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on June 29, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated

burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

##### NEW FORMS

##### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service, National Survey of Personal Health Practices and Health Consequences, other (see SF-83), random sample of 48 contiguous States and District of Columbia, Richard Elsinger, 395-3214.

Social Security Administration, Application for Benefits Under the Italy-United States International Social Security Agreement,

SSA-3954, on occasion, 56,000 persons filing for social security under United States and Italy agreement, Marsha Traynham, 395-3773.

##### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

##### Housing Management:

Addendum to Lease, HUD-52517B, on occasion, 300,000 owners of units in the private market, Royce L. Lowry, 395-3772.

Certificate of Family Participation, HUD-52578, on occasion, 300,000 families participating in section 8 housing program, Royce L. Lowry, 395-3772.

Request for Lease Approval, HUD-52517A, on occasion, 300,000 owners of units in the private market, Royce L. Lowry, 395-3772.

##### REVISIONS

##### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development, Instructions for Applying for Grants From HDS Pro-

grams, on occasion, 15,000 nonprofit organizations, 506 responses, 146 hours, Human Resources Division, Reese, B. F., 395-3532.

#### EXTENSIONS

##### ENVIRONMENTAL PROTECTION AGENCY

National Emissions Data System (NEDS) Input Data Forms, EPA-219-220, semi-annually, 55 State air pollution control agencies, 55 responses, 2,750 hours, Ellett, C. A., 395-6132.

##### VETERANS ADMINISTRATION

Application of Service Representative for Placement on VA Administration Mailing List, 07-3215, on occasion, service organization representatives, 150 responses, 25 hours, Clearance Office, 395-3772.

##### DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service, January Acreage Survey, annually, farmers, 97,000 responses, 9,700 hours, Clearance Office, 395-3772.

##### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development, Monitoring or Real Property Acquisition—Questionnaire, for Interviewing Former Property Owner, HUD-4024.1, on occasion, former owner of real property acquired by HUD program, 1,500 responses, 750 hours, Royce L. Lowry, 395-3772.

BRENDA A. MAYBERRY,  
*Acting Budget and  
Management Officer.*

[FR Doc. 78-18558 Filed 7-3-78; 8:45 am]

[7035-01]

#### OFFICE OF RAIL PUBLIC COUNSEL

[Notice 78-OR-1]

##### AMTRAK RAIL PASSENGER SERVICES

Outreach Assistance for Participants in Hearings

#### Correction

In FR Doc. 78-17680, appearing at page 27623 in the issue for Monday, June 26, 1978, the agency carried in the document heading should be "Office of Rail Public Counsel" as set forth above and not "Interstate Commerce Commission" as originally printed.

[7715-01]

#### POSTAL RATE COMMISSION

##### IMPROVING GOVERNMENT REGULATIONS

Report on Implementation of Executive Order 12044

JUNE 28, 1978.

AGENCY: Postal Rate Commission.

ACTION: Report on implementation of Executive Order 12044.

SUMMARY: This notice sets forth the plan adopted by the Postal Rate Com-

mission for periodic review and improvement of its rules of practice, pursuant to Executive Order 12044. Section 6(b)(5) exempts from the mandatory coverage of this order, regulations issued by independent regulatory agencies, including the Postal Rate Commission, but the President has requested that such agencies voluntarily implement the principles of E.O. 12044 and the commission has undertaken to do so. The present notice explains (i) the coverage of the plan, which is limited to the Commission's rules of practice (all other rules being of an internal, administrative nature); (ii) the relationship between the plan and the commission's substantive duties as well as its other mechanisms for amending the rules; (iii) the policy considerations considered relevant to these rules and their amendment; and (iv) the proposed procedural timetable for the annual review provided by the plan.

DATES: Comments on the plan should be submitted by July 28, 1978.

ADDRESS: Comments should be directed to David F. Harris, Secretary, Postal Rate Commission, Suite 500, 2000 L Street NW., Washington, D.C. 20268.

#### FOR FURTHER INFORMATION CONTACT:

David F. Stover, Assistant General Counsel (Regulation), Suite 500, 2000 L Street NW., Washington, D.C. 20268; telephone 202-254-3830.

DAVID F. HARRIS,  
*Secretary.*

#### OUTLINE OF PROGRAM FOR IMPROVING POSTAL RATE COMMISSION RULES

##### I. INTRODUCTION

On March 24, 1978, Executive Order 12044, Improving Government Regulations, was published in the *FEDERAL REGISTER*. This Executive order embodied procedures designed by the Administration to increase the efficiency and intelligibility of rules issued by the Federal Government and reduce the burden of compliance with them. The Executive order recognizes that independent regulatory agencies, including this Commission, should not be made subject to its mandatory provisions, but urges that such agencies voluntarily adopt its principles in reviewing their rules and regulations. The Postal Rate Commission has done so, and is adopting the following procedural plan for the future improvement of its rules of practice.

##### II. COVERAGE OF THE PLAN

This plan affects the Commission's rules of practice (39 CFR Part 3001). The Commission's other rules—i.e., standards of employee conduct, statement of organization, and Privacy Act

rules—are either concerned entirely with internal administrative matters or are governed by statutory standards (in the case of the Privacy Act), and are not amenable to the methods proposed in Executive Order 12044.

##### III. STATUS OF THE PLAN

The plan is intended by the Commission to provide the principal mechanism for periodic review and improvement of the rules of practice. It must be recognized that, on occasion, the demands of the Commission's substantive workload may require postponement or adjustment of the dates set forth in the plan for the various procedural steps. Nevertheless, it is the Commission's intention that review under the plan will be conducted annually. When it is necessary to depart by more than a few days from the schedule given in the plan, the Commission will publish notice of the fact, setting forth the reasons for the departure. The fact that, in any year, review under the plan does not take place in accordance with the schedule given therein shall not affect the validity or applicability of any existing rule. The Commission of course reserves the right to make other changes in the rules of practice, using generally applicable rulemaking standards, at any time such action appears necessary.

##### IV. POLICY CONSIDERATIONS

The following policy considerations to be observed in the revision of rules under the plan are suggested in part by Executive Order 12044 and in part by our independent consideration of the needs of the Commission, the public, and the parties and counsel appearing before us.

A. Continued need for the regulation.

B. Type and number of complaints or suggestions received.

C. Burdens imposed on those affected by the rule.

D. Need to clarify or simplify language.

E. Need to eliminate overlapping or duplicative rules.

F. Changed conditions (including economic conditions, technological developments including data processing techniques, or other relevant factors) when such changes can be shown to have occurred.

G. Need for stability in procedural rules.

H. Need for expedition in Commission cases.

I. Standards of §§ 556 and 557 of the Administrative Procedure Act (5 U.S.C. §§ 556, 557).

J. Ability of the Officer of the Commission effectively to represent the interests of the public [see 39 U.S.C. § 3624(a)].

K. Need to preserve and promote both the appearance and the reality of

fairness and impartiality in Commission proceedings.

L. Need for a full and complete evidentiary record.

M. Need to explore alternatives not advocated by a party [see *Scenic Hudson Preservation Conf. v. FPC*, 354 F.2d 608 (2d Cir., 1965)].

N. Such other factors as the Commission may find to be relevant in a particular case.

#### V. PROCEDURAL TIMETABLE

The annual review contemplated by the plan would follow the timetable set out below, subject to the qualifications expressed in section III:

A. Advance Notice of Proposed Rulemaking—December 1.

The advance notice of proposed rulemaking would (a) invite suggestions and proposals for improvements in the rules of practice, and (b) describe any amendments the Commission was at that time contemplating.

B. Deadline for Filing Responsive Comments to Advance Notice of Proposed Rulemaking—January 15.

C. Completion of Commission Analysis of Comments—February 15.

This analysis would include the preparation of draft language for any change the Commission contemplated adopting.

D. Notice of Proposed Rulemaking—February 20.

E. Deadline for Filing Responsive Comments on Notice of Proposed Rulemaking—March 31.

F. Commission's Final Rulemaking Order—April 20.

If an issue of extraordinary complexity should arise in the notice and comment process, the Commission contemplates severing that issue for further study and later disposition, rather than extending it to procedural schedule as a whole to accommodate it.

[FR Doc. 78-18471 Filed 6-29-78; 2:36 pm]

[4710-07]

#### DEPARTMENT OF STATE

[CM-8/74]

##### SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

##### Meeting

The working group on lifesaving appliances of the Subcommittee on Safety of Life at Sea (SOLAS), a component of the Shipping Coordinating Committee (SHC), will conduct an open meeting at 9:30 a.m. on Wednesday, July 26, 1978, in room 8236, U.S. Coast Guard Headquarters, 400 7th Street SW., Washington, D.C.

The purpose of the meeting is to:

Discuss the report of the 12th session of the Intergovernmental Mari-

time Consultative Organization's (IMCO) Subcommittee on Lifesaving Appliances.

Discuss the draft paper prepared by the United States as ad hoc coordinator of work developed at the 12th session, Lifesaving Appliances Subcommittee.

Discuss U.S. submission to 13th session of the Lifesaving Appliances Subcommittee.

Requests for further information on the meeting should be directed to Mr. N. W. Lemley, Chief, Survival Systems Branch, U.S. Coast Guard, Washington, D.C. 20590, telephone 202-426-1444.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, Jr.,  
Acting Chairman, Shipping  
Coordinating Committee.

[FR Doc. 78-18464 Filed 7-3-78; 8:45 am]

[4810-22]

#### DEPARTMENT OF THE TREASURY

##### Office of the Secretary

##### PNEUMATIC MARINE FENDERS FROM JAPAN

Antidumping; Tentative Determination of Sales  
At Not Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Tentative negative determination.

SUMMARY: This notice is to advise the public that there is no reason to believe or suspect, based on the information available, that pneumatic marine fenders from Japan are being sold at less than fair value within the meaning of the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of the merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. Interested persons are invited to comment on this action not later than 30 days from the effective date of this notice.

EFFECTIVE DATE: July 5, 1978.

FOR FURTHER INFORMATION  
CONTACT:

Stephen Nyschot, Operations Office,  
Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTAL INFORMATION: Information was received in proper form on November 23, 1977, from counsel acting on behalf of Seaward International, Inc., Falls Church, Va., and Samson Ocean Systems, Inc., Boston, Mass., alleging that pneumatic marine fenders from Japan were being sold in the United States at less than

fair value, thereby causing injury to, or the likelihood of injury to, an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "antidumping proceeding notice" was published in the FEDERAL REGISTER of December 28, 1977 (42 FR 64753).

For purposes of this notice, the term "pneumatic marine fenders" means pneumatic marine fenders used on vessels, docks, and quays to absorb impact, provided for in item 790.39, Tariff Schedules of the United States.

#### TENTATIVE DETERMINATION OF SALES AT NOT LESS THAN FAIR VALUE

On the basis of the information developed in the customs Service investigation and for the reasons noted below, pursuant to section 201(b) of the act (19 U.S.C. 160(b)), I hereby determine that there are no reasonable grounds to believe or suspect that the purchase price of pneumatic marine fenders from Japan is less than fair value, and thereby the foreign market value, of such or similar merchandise.

#### STATEMENT OF REASONS ON WHICH THIS — DETERMINATION IS BASED

The reasons and bases for the above tentative determination are as follows:

a. *Scope of the investigation.* It appears that all imports of the subject merchandise from Japan were manufactured by Yokohama Rubber Co., Ltd., Tokyo, Japan. Therefore, the investigation was limited to this manufacturer.

b. *Basis of comparison.* For the purpose of considering whether the merchandise is being, or is likely to be, sold at less than fair value within the meaning of the act, the proper basis of comparison appears to be between purchase price and the home market price of such merchandise. Purchase price, as defined in section 203 of the act (19 U.S.C. 162), was used since the export sales compared appear to be made to unrelated Japanese trading companies for resale to the United States. Home market price, as defined in section 153.2, Customs regulations (19 CFR 153.2), was used since such merchandise appears to be sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with section 153.31(b), Customs regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales in the home market and to the United States during the period January 1 through December 31, 1977.

c. *Purchase price.* For the purpose of this tentative determination, purchase price has been calculated on the basis

of the c.i.f., c. & f., or f.o.b. packed price to the unrelated trading company for export to the United States, with deductions for ocean freight, insurance, and domestic freight, as appropriate.

d. *Home market price.* For the purpose of this tentative determination, the home market price has been calculated on the basis of the delivered, packed price to unrelated customers in the home market. Adjustments have been made for interest costs, freight, and packing cost differentials, as appropriate, in accordance with section 153.10, Customs regulations (19 CFR 153.10). The adjustment for interest costs relates to extended payment terms granted to customers in the home market.

Claims made by respondent for adjustments for the following were not allowed: Fluctuation in currency exchange rate, difference in level of trade, and advertising expenses allegedly incurred in the home market. The claim for an adjustment for currency exchange-rate fluctuation is based upon respondent's argument that, with respect to a certain sale, it had made a binding offer to sell at a designated price several months before the date of purchase. However, section 153.52(a) of the Customs regulations (19 CFR 153.52(a)) clearly establishes that the exchange rate in effect on the date of purchase, or agreement to purchase, governs, and the mere existence of a firm offer cannot be considered the date of purchase, or agreement to purchase, until that offer is accepted. In addition, respondent argued that the sale in question was made to a different level of trade from that in the home market. It contends that the sales of the particular size fender in the home market were made to ship chandlers, which allegedly sell directly to end users, whereas the price to the United States was based upon a sale made to the trading company in Japan. However, no information was presented to show that ship chandlers do, indeed, sell only to end users or that the functions they perform are different from those performed by the trading company. In view of this lack of substantiation, no adjustment could be made for differences in level of trade, as provided for by section 153.15 of the Customs regulations (19 CFR 153.15). The claim for advertising expenses allegedly incurred in the home market did not indicate that the expenses were incurred on behalf of Yokoham's customers, as required by section 153.10 of the Customs regulations (19 CFR 153.10), and furthermore, inadequate documentation was provided.

e. *Result of fair value comparisons.* Using the above criteria, the comparisons made on 100 percent of the sales of the subject merchandise to the

United States indicated that purchase price was not less than the home market price of such merchandise for nearly 99 percent of the total value sold to the United States. In one sale, accounting for slightly over 1 percent of the total value sold to the United States and involving one particular small size pneumatic marine fender, not focused upon by petitioner in this case, purchase price was found to be less than the home market price. However, this margin amounted to roughly 0.3 of one percent when weighted over 100 percent of all sales, and is considered to be de minimis in the context of this case.

In accordance with section 153.40, Customs regulations (19 CFR 153.40), interested persons may present written views or arguments, or requests in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than July 20, 1978. Such request must be accompanied by a statement outlining the issues wished to be discussed, which issues may be discussed in greater detail in a written brief.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in 10 copies in time to be received by his office not later than August 4, 1978. All persons submitting views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioner and respondent are also requested to send each other all written submissions, including nonconfidential summaries or approximated presentations of all confidential information.

This tentative determination and the statement of reasons therefor are published pursuant to section 153.34(a) of the Customs regulations (19 CFR 153.34(a)).

Dated: June 28, 1978.

PETER D. EHRENHAFT,  
Deputy Assistant Secretary  
of the Treasury.

IFR Doc. 78-18475 Filed 7-3-78; 8:45 am

#### [7035-01]

### INTERSTATE COMMERCE COMMISSION

[Notice No. 670]

#### ASSIGNMENT OF HEARINGS

JUNE 29, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be pub-

lished only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 109397 (Sub-No. 404), Tri-State Motor Transit Co.; No. MC 123407 (Sub-No. 429), Sawyer Transport, Inc.; No. MC 124947 (Sub-No. 78), Machinery Transport, Inc., now being assigned for continued hearing on August 22, 1978 (2 weeks), at the Atlanta American Hotel, Georgian Room, International Boulevard and Spring Street, Atlanta, GA.

No. MC 143998, Clifford T. Glenn, d.b.a. Tally-Ho Charter Service, now being assigned September 6, 1978 (3 days), at El Paso, TX, in a hearing room to be later designated.

No. MC-F13182, Newman Bros. Trucking Co.—Purchase—E. M. Keller and Co., Inc., and MC 120761 (Sub-No. 21), Newman Bros. Trucking Co., now being assigned for September 11, 1978 (1 week), at Dallas, TX, in a hearing room to be later designated.

No. AB 18 (Sub-No. 21), Chesapeake & Ohio Railway Co., abandonment of car ferry service across Lake Michigan between Ludington, MI, and Kewaunee, Milwaukee, and Manitowoc, WI, is now assigned for hearing (a supplemental hearing) August 15, 1978 (1 day), at Milwaukee, WI, at a location to be later designated.

NANCY L. WILSON,  
Acting Secretary.

IFR Doc. 78-18483 Filed 7-3-78; 8:45 am

#### [7035-01]

[Notice No. 109]

#### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 30, 1978.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it

relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

#### MOTOR CARRIERS OF PROPERTY

No. MC 97457 (Sub-No. 7TA), filed April 24, 1978, and published in the FEDERAL REGISTER issue of May 23, 1978, as No. MC 144719TA, and republished as corrected this issue. Applicant: WARNER & SONS TRUCKING CO., 3224 Sand Creek Highway, R.F.D. No. 1, Adrian, MI 49221. Applicant's representative: David E. Jerome, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Supplies and materials* used in the manufacture of air conditioners and refrigerated equipment, from Grand Rapids, MI, to the plantsite of Belding Products Co. in Belding, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Belding Products Co., Belding, MI 48809. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, 225 Federal Building, Lansing, MI 48933. The purpose of this republication is to indicate the correct docket number as No. MC 97457 (Sub-No. 7TA) in lieu of No. MC 144719TA as previously published.

No. MC 105006 (Sub-No. 8TA), filed May 10, 1978. Applicant: L. L. SMITH TRUCKING, P.O. Box 566, Powell, WY 82435. Applicant's representative: Thompson & Kelley, 450 Capitol Life Center, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, materials, supplies and equipment used in, incidental to or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and byproducts* (1) between points in CO and WY on the one hand, and on the other hand, points in ID, NV, NM and UT, and (2) between points in ID, NV, NM and UT, for 180

days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (13) statements of support attached to the application which may be examined at the field office named below. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Room 105 Federal Building and Court House, 111 South Wolcott, Casper, WY 82601.

No. MC 106074 (Sub-No. 63TA), filed May 11, 1978. Applicant: B & P MOTOR LINES, INC., Shiloh Road, P.O. Box 727, Forest City, NC 28043. Applicant's representative: George W. Clapp, registered practitioner, P.O. Box 836, Taylors, SC 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard, pulpboard boxes, and pulpboard box components* from Charlotte, NC to Quincy, IL, Concordia, Kansas City and Poplar Bluff, MO and Cookeville, TN and points in their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Atlantic Coast Carton Co., P.O. Box 8607, Charlotte, NC 28208. Send protests to: Terrell Price, District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Room CC516, Charlotte, NC 28205.

No. MC 116457 (Sub-No. 33TA), filed May 1, 1978. Applicant: GENERAL TRANSPORTATION, INC., 1804 South 27th Avenue, P.O. Box 6484, Phoenix, AZ 85005. Applicant's representative: D. Parker Crosby, 1710 South 27th Avenue, P.O. Box 6484, Phoenix, AZ 85005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Structural glazed tile, fire brick, flue lining, ceramic floor and wall tile, fire clay, and commodities used in the installation thereof*, (except commodities in bulk or tank vehicles), from points in TX to points in AZ, NV, and Kern, San Luis Obispo, Santa Barbara, Ventura, San Bernardino, Los Angeles, Riverside, Orange and San Diego Counties, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Elgin-Butler Brick Co., P.O. Box 1947, Austin, TX 78767. Pan American Industries, P.O. Box 716, Gonzales, TX 78629. Dallas Ceramic Co., 7834 Hawn Freeway, Dallas TX 75217. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 118263 (Sub-No. 72 TA), filed April 19, 1978, and published in the FEDERAL REGISTER issue of June 2,

1978, and republished as corrected this issue. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Applicant's representative: William P. Whitney, Jr., 708 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Foodstuffs and related products*, except in bulk, moving in vehicle equipped with mechanical refrigeration. Between the facilities of Louisville Freezer Center in Jefferson County, KY, on the one hand, and, on the other, all points and places in AL, AR, DC, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, NY, NC, OH, PA, SC, TN, VA, WA, and WI. Restricted to the transportation of freight having an origin or destination at the facilities of Louisville Freezer Center, 2000 South Ninth Street, Louisville, KY 40208. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204. The purpose of this republication is to (1) add the State of AR to the territorial description, and (2) change the second DC in the territorial description to SC (South Carolina).

No. MC 126118 (Sub-No. 78 TA), filed May 11, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Applicant's representative: Duane W. Ackle (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Chicago and Hennepin, IL, and their commercial zones to Grand Island, NE, and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): James R. Cusick, Purchasing & Materials Manager, Overhead Door Corp., P.O. Box 2007, Grand Island, NE 68801. Send protest to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 128951 (Sub-No. 18TA), filed May 11, 1978. Applicant: ROBERT H. DITTRICH, d.b.a. BOB DITTRICH TRUCKING, 1000 North Front Street, New Ulm, MN 56073. Applicant's representative: James T. Flescher, 1745 University Avenue, St. Paul, MN 55104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed*, in bag or in bulk or in combination moving in the same truck equipped with self-unloading equipment by auger discharge from the facilities of Cargill, Nutrena Feed Division at New Richland, MN to points in IA, SD, the upper peninsula of MI and WI, for 180 days. Applicant



has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cargill, Nutrena Feed Division, P.O. Box 9300, Minneapolis, MN 55440. Heger Co., 2562 East 7th Avenue, North, St. Paul, MN 55109. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 135797 (Sub-No. 118TA), filed May 19, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Hwy 71, Lowell, AR 72745. Applicant's representative: Paul A. Maestri, Vice President (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic granules* (except in bulk) from Peru, IL; Jamesburg, NJ and Monaca, PA, to Sallisaw, OK, (2) *paper backed aluminum foil*, from Attleboro, MA, to Sallisaw, OK, and (3) *plastic articles* (except in bulk) from Sallisaw, OK to points in AL, AR, IA, KS, LA, MS, MO, OK, TN, and TX, for 180 days. Supporting shipper(s): Electro Foam Packaging Corp., P.O. Box 645, Sallisaw, OK 74955. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 136605 (Sub-No. 51TA), filed May 5, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, 216 Trade Street, Missoula, MT 59807. Applicant's representative: W. E. Seliski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt-composition roofing, shingles, rolled roofing and asphalt impregnated sheathing board* from the ports of entry on the United States-Canada International Boundary line located in the States of ID and MT to points in WA, OR, ID, and MT, restricted to traffic originating in the Province of AB, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): A. D. McIntosh, Manager, IKO Industries, Ltd., P.O. Box 1325, Calgary, AB, Canada T2P 2L2. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

No. MC 138026 (Sub-No. 17TA), filed May 4, 1978. Applicant: LOGISTICS EXPRESS, INC., d.b.a. LOGEX, 8060 East Florence Avenue, Downey, CA 92335. Applicant's representative: David P. Christianson, Knapp, Stevens, Grossman & Marsh, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

*Carbon dioxide*, between all points in AL, AR, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MS, MO, NJ, NC, OK, OH, PA, SC, TN, TX, VA, and WV, for 180 days. Supporting shipper(s): Carbonic Industries Corp., P.O. Box 2311, 1700 South Division Avenue, Orlando, FL 32802. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 138274 (Sub-No. 45TA), filed March 27, 1978. Applicant: PAYNE MOTOR LINES, INC., 251 West Commercial, P.O. Box 1937, Elko, NV 89801. Applicant's representative: D. Michael Jorgensen, Nelson, Harding, Richards, Leonard & Tate, P.O. Box 2465, Salt Lake City, UT 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed and feed ingredients, supplements, additives, materials, and supplies* used in the manufacture and promotion of animal feeds, from the facilities of Kal Kan Foods, Inc., at or near Columbus, OH to points in CO, KS, IA, IL, MN, NE, ND, SD, and MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kal Kan Foods, Inc., 3386 East 44th Street, Vernon, CA 90058. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

NOTE.—The applicant has changed its corporate name from Shippers Best Express, Inc., to Payne Motor Lines, Inc. A name change request is before the Commission awaiting approval of tariff adoptions before an order will be issued reflecting the new corporate name. For status information, talk to Ms. Florence P. Wayns, room 2372, Ext. 57045.

No. MC 138469 (Sub-No. 74TA), filed May 1, 1978. Applicant: DONCO CARRIERS, INC., 2027 South Nicholas, P.O. Box 75354, Oklahoma City, OK 73107. Applicant's representative: Daniel O. Hands, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bicycles and bicycle parts and accessories*, (1) from Secaucus, NJ and Buffalo, NY to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, SC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI, and WY; (2) from Port Clinton, OH to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, WI, and WY, for 180 days. (Restricted in (1) and (2) above to shipments originating at or destined to the facilities of Raleigh Industries

of America, Inc.) Supporting shipper(s): Raleigh Industries of America, Inc., 1170 Commonwealth Avenue, Boston, MA 02134. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest 3d, Oklahoma City, OK 73102.

No. MC 140768 (Sub-No. 20TA), filed May 1, 1978. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquettes and fireplace logs*, from the facilities of Great Lakes Carbon Corp. at or near Marion, OH to points in CT, MA, MD, NJ, NY, PA, and VA; for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Great Lakes Carbon Corp., 279 Park Avenue, New York, NY 10017. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 141764 (Sub-No. 8TA), filed May 3, 1978. Applicant: BLACK-HAWK ENTERPRISES, 853 Hancock Street, Hayward, CA 94544. Applicant's representative: William D. Taylor, Handler, Baker & Greene, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting*, NOI from Dalton, GA and/or Winchester, TN to points and places in the State of CA, under a continuing contract or contracts with E. & B. Carpet Mills, Inc., Dalton, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): E. & B. Carpet Mills, Inc., 1020 Riverbend, Dalton, GA 30720. Send protests to: District Supervisor A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

No. MC 141910 (Sub-No. 2TA), filed May 17, 1978. Applicant: FAIRWAY TRANSIT, INC., North 10 West 24730 Highway TJ, Pewaukee, WI 53072. Applicant's representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Calcium carbide*, in containers, from Keokuk, IA to (1) the facilities of Northern Gases, Inc., at or near Waukesha, WI under a continuing contract or contracts with Northern Gases, Inc., and (2) the facilities of Manitowoc Gases, Inc., at or near Manitowoc, WI under a continuing contract or contracts with Man-



itowoc Gases, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Northern Gases, Inc., 309 Sentry Drive, Waukesha, WI 53186 (Michael Duffy) and Manitowoc Gases, Inc., 309 Sentry Drive, Waukesha, WI 53186 (Michael Duffy). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 143163 (Sub-No. 7TA), filed April 7, 1978. Applicant: RICHARDSON TRUCKING, INC., 330 East 8th Street, P.O. Box 967, Greeley, CO 80631. Applicant's representative: Wm. Fred Cantonwine (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* from the facilities of Miami Margarine Co. in Albert Lea, MN to points in CA, CO, KS, NE, NM, OR, TX, UT, and WA; and *Foodstuffs, and materials and supplies* used in the operation of margarine and shortening facilities from the facilities of Double-D Foods (a subsidiary of Miami Margarine Co.), at City of Industry, CA and its commercial zone, and Chicago, IL and Kansas City, KS and each of their respective commercial zones to the production and storage facilities of Miami Margarine Co. at Albert Lea, MN, under a continuing contract or contracts with Miami Margarine Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Miami Margarine Co., 5226 Vine Street, Cincinnati, OH 45217. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

No. MC 143616 (Sub-No. 9TA), filed May 3, 1978. Applicant: M. & S. TRANSPORT LINES, INC., P.O. Box 417, Sultana, CA 93666. Applicant's representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Adhesives, spray lubricating oil, caulking compounds, putty, patching plaster, wood filler, and covering and filling materials* (except commodities in bulk), and (2) *synthetic resins and chemicals* (except in bulk), from Bainbridge, NY to points in TX and CA, under a continuing contract or contracts with Borden Chemical Division of Borden, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Borden

Chemical, 180 East Broad Street, Columbus, OH 43215. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 143616 (Sub-No. 11TA), filed May 3, 1978. Applicant: M. & S. TRANSPORT LINES, INC., P.O. Box 417, Sultana, CA 93666. Applicant's representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plated steel coil*, from Youngstown and Warren, OH, to Tulare, CA, under a continuing contract or contract with Houck Industries, Inc., of Tulare, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Houck Industries, Inc., 437 North "M", P.O. Box 186, Tulare, CA 93274. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 144117 (Sub-No. 11TA), filed April 26, 1978, and published in the FEDERAL REGISTER issue of May 22, 1978, and republished as corrected this issue. Applicant: TLC LINES, INC., P.O. Box 1090, 1666 Fabick Drive, Fenton, MO 63026. Applicant's representative: Daniel C. Sullivan, 10 S. LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Pulpboard, or paperboard, not corrugated, in packages*, from the facilities of the Scott Paper Co., Inc., Beveridge Division, Indianapolis, IN, to points in NM, CO, WY, MO, ID, UT, AR, NV, OR, WA, and CA., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Scott Paper Co., Beveridge Division, 717 West Washington Street, Indianapolis, IN. Send protest to: Peter E. Binder, Acting District Supervisor, Interstate Commerce Commission, Bureau of Operations, room 1465, 210 North 12th Street, St. Louis, MO 63101. The purpose of this republication is to correct the commodity description.

No. MC 144160 (Sub-No. 1TA), filed May 11, 1978. Applicant: DONALD A. HALVORSEN, 19000 SW Wright Court, Aloha, OR 97005. Applicant's representative: Philip G. Skofstad, Attorney, P.O. Box 594, Gresham, OR 97030. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Greases, motor and lubricating oils, tires, batteries, and empty returned drums*, except commodities in bulk, in

tank vehicles, between Portland, OR, on the one hand, and on the other, Wenatchee, Chelan, Pasco, Connell, Winlock, and Centralia, WA, under a continuing contract or contracts with Cummings Oil Co., Desert Oil Company, Inc., and Budget Fuel & Service, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cummings Oil Co., 210 Northup Street, Centralia, WA 98531. Desert Oil Co., Inc., P.O. Box 701, Pasco, WA 99301. Budget Fuel & Service, Inc., P.O. Box 1299, Wenatchee, WA 98801. Send protests to: District Supervisor A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, OR 97204.

No. MC 144439 (Sub-No. 1TA), filed April 25, 1978. Applicant: JOHN WELCH, WILLIAM WELCH AND W. D. WELCH, a partnership d.b.a. WELCH BROS. TRUCKING CO., 1105 South Boulder Street, Portales, NM 88130. Applicant's representative: Edwin E. Piper, Jr., 1115 Sandia Savings Building, Albuquerque, NM 87102. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Roofing and roofing products, supplies and equipment and insulation materials* (except commodities in bulk in tank vehicles), from the facilities of Owens-Corning Fiberglas Corp., at or near Lubbock, TX, to points in AZ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Owens-Corning Fiberglas Corp., 5818 Archer Street, Summit, IL 60501. Send protests to: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

No. MC 144733TA, filed May 5, 1978. Applicant: RAY ROUTH d.b.a. RAY ROUTH & SONS, Rural Route 2, Box 105, New Richland, MN 56072. Applicant's representative: James T. Flescher, 1745 University Avenue, St. Paul, MN 55104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed* in bag or in bulk or in combination moving in the same truck equipped with self-unloading equipment by auger discharge from New Richland, MN to points in IA, SD, upper peninsula of MI and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cargill Nutrena Feed Division, P.O. Box 9300, Minneapolis, MN 55440. Heger Company, 2562 East 7th Avenue, North St. Paul, MN 55109. Send protests to: Delores A. Poe, Transportation Assistant,

Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 144847TA, filed June 2, 1978. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644, Great Falls, MT 59403. Applicant's representative: Ray F. Koby, 300 Montana Building, Great Falls, MT 59403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Acid* (in bulk), (1) from Anaconda, MT, to the facilities of Western Nuclear, Inc., Near Wellpinit, WA, and (2) from Spokane, WA, to the facilities of Western Nuclear, Inc., near Wellpinit, WA, restricted to traffic having a prior movement by rail, under a continuing contract, or contracts, with Phelps Dodge Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Roger A. Small, Assistant General Traffic Manager, Phelps Dodge Corp., 300 Park Avenue, New York, NY 10022. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

#### PASSENGER CARRIER

No. MC 144602TA, filed March 30, 1978. Applicant: CONTINENTAL LIMOUSINE SERVICE, INC., 3123 N. Washington Boulevard, Arlington, VA 22201. Applicant's representative: Lewis E. Leibowitz, 1815 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, limited to prospective recruits in the U.S. armed forces and military personnel enroute to the Recruitment Testing Center, in possession of tickets issued by the Armed Forces authorizing them to utilize said transportation service, from the Armed Forces Recruiting Offices in Fairfax, VA, Falls Church, VA; Alexandria, VA; Washington, DC, and Hillcrest Heights, MD, on the one hand, to the Armed Forces Testing Center, Linthicum Heights, MD, on the other, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): 3535 USAF Recruiting SQ, Chief, Logistics Branch, Bolling AFB, DC 20332. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, Washington, DC 20423.

#### WATER CARRIER

No. W-1132 (Sub-No. 4TA), filed May 31, 1978. Applicant: BLACK NAVIGATION CO., INC., P.O. Box

1432, Fairbanks, AK 99701. Applicant's representative: Alan F. Wohlstetter, Law Offices of Denning & Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by water, in interstate or foreign commerce, by non-self-propelled vessels, with the use of separate towing vessels, in the transportation of: *General commodities*, except classes A and explosives, during the season extending from May 1, to October 30, both dates inclusive, of each year, (1) between points on the Kuskokwim River above Bethel and Kuskokwim, AK, including Bethel and Kuskokwim; and (2) between points on the Kuskokwim River above Bethel, AK, not including Bethel, on the one hand, and, on the other, Oscarville, Napaikak, Napakiak, Tuntalunilag, Eek, Nunapitchuck, Kasigluk, and Moravian Orphanage, AK, restricted to traffic having an immediately prior or immediately subsequent movement by air, for 180 days. Supporting shipper(s): There are approximately (19) statements of support attached to the application which may be examined at the field office named below. Send protests to: Hugh H. Chaffee, Interstate Commerce Commission, 268 Federal Building, 605 West 4th Avenue, Anchorage, AK 99501.

By the Commission.

NANCY L. WILSON,  
Acting Secretary.

[FR Doc. 78-18484 Filed 7-3-78; 8:45 am]

[7035-01]

[Notice No. 108]

#### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 29, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in

connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

#### MOTOR CARRIERS OF PROPERTY

No. MC 111375 (Sub-No. 92TA), filed May 30, 1978. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Applicant's representative: Charles E. Dye, P.O. Box 3358, Madison, WI 53704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Yogurt*, from Reed City, MI and its commercial zone to CT, ID, and UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Yaplait, USA, Inc., 304 East Hammond, Otsego, MI 49078. Send protests to: Interstate Commerce Commission, Ronald A. Morken, District Supervisor, 139 West Wilson Street, Room 202, Madison, WI 53703.

No. MC 136315 (Sub-No. 29TA), filed May 23, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Pipe and fittings, valve boxes, water boxes, castings and accessories*, from the facilities of The Central Foundry Co. at or near Holt, AL, to points in IA, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Central Foundry Co., P.O. Box 188, Holt, AL 35401. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, room 212, 145 East Amite Building, Jackson, MS 39201.

No. MC 136315 (Sub-No. 30TA), filed May 23, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle over

irregular routes, transporting: *Dump trailers and platform trailers*, from the facilities of Dorsey Trailers, Inc., Hummels Wharf, PA, to points in AR, LA, MS, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dorsey Trailers, Inc., Hummels Wharf, PA 17831. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, room 212, 145 East Amite Building, Jackson, MS 39201.

No. MC 136803 (Sub-No. 7TA), filed June 2, 1978. Applicant: SIOUX CITY BULK FEED SERVICE, INC., 3324 Highway 75 North, Sioux City, IA 51105. Applicant's representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Feed and feed ingredients*, between Magnolia, MN, and points in IA, NE, and SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Plains Milling, Inc., P.O. Box 98, Magnolia, MN 56158. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 138206 (Sub-No. 4TA), filed May 23, 1978. Applicant: TRULINE CORP., 4455 South Cameron Avenue, Las Vegas, NV 89701. Applicant's representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products and gypsum board paper, and gypsum products*, from points in Clark County, NV, to Salt Lake City, UT; Gypsum Board Paper, from Florence, CO, to points in Clark County, NV, for 180 days. Supporting shipper(s): Flintkote Co., 2201 East Washington, Los Angeles, CA 90021. Send protests to: W. J. Huetig, District Supervisor, Interstate Commerce Commission, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

No. MC 138882 (Sub-No. 69TA), filed April 27, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wheel weights, materials, equipment and supplies*, used in the manufacture and sale of wheel weights (except commodities in bulk), between the facilities of Bada Co., Inc., division of Hennessey Industries Co., Bowling Green KY; and (2) *Tire changers, jacks, tire balancers, materi-*

*als, equipment and supplies*, used in the manufacture and sale of tire changers, jacks and tire balancers (except commodities in bulk), between the facilities of Coats Co., Inc., division of Hennessey Industries Co., Nashville, TN, on the one hand, and, on the other, Augusta, Savannah, Macon, Lithonia, GA; Kokomo, Indianapolis, Paoli, Morristown, Mishawaka, IN; Cedar Falls, Davenport, Ames, Rock Valley, Monare, Webster City, Marion, IA; Livonia, Detroit, Warren, Adrian, Taylor, Lansing, MI; Omaha, NE; Dayton, Loveland, Youngstown, Akron, Findlay, Shelby, Warren, Toledo, OH; Dickson, TN; Beaver Dam, Milwaukee, Combined Locks, WI; Ormand Beach, Tampa, Auburndale, Miami, Daytona Beach, Orlando, FL; Franklin Park, Rockford, Effingham, Alington Heights, IL; Lenexa, Kansas City, St. Louis, MO; Kenner, LA; Lewiston, ME; Glen Burnie, MD; Quincy, Springfield, MA; Manchester, NH; Bound Brook, Cliffside Park, Newark, Piscataway, West Paterson, NJ; Emmaws, Freeland, Wilkes-Barre, Harrisburg, Tamaqua, Pittsburgh, Imperial, Glenside, PA; Pawtucket, Cranston, RI; Houston, Richardson, San Antonio, Fort Worth, Lubbock, Paris, Tyler, McAllen, TX; Little Rock, AR; Oklahoma City, OK; Tempe, AZ; San Leandro, Westminster, San Diego, Upland, Sunnydale, Redwood City, Oakland, Sacramento, Fresno, San Francisco, Riverside, CA; Albuquerque, NM; Portland, OR; Salt Lake City, UT; Seattle, Spokane, Tacoma, WA; Lenexa, KS; Minneapolis, MN; Garden City, Long Island, Freeport, Buffalo, Tonawanda, Syracuse, Rochester, NY; Birmingham, AL; Rocky Mount, Charlotte, Winston-Salem, Ayden, NC; Spartanburg, Summerville, SC, restricted to shipments having origin and destination at the above facilities, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hennessey Industries, Inc., LaVergne, TN 37086. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 139917 (Sub-No. 4TA), filed May 16, 1978. Applicant: SEARAIL, INC. P.O. Box 909, 701 South Royal Street, Mobile, AL 36601. Applicant's representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* in containers or trailers having an intermediate prior or subsequent movement by water, (except those of unusual value, classes A and B explosives, and commodities in bulk); (2) *General commodities*, having an intermediate prior or subse-

quent movement by rail (except those of unusual value, classes A and B explosives, and commodities in bulk), between the facilities of International Paper Co., Inc., at points in Florida west of the Apalachicola River, on the one hand, and, on the other, Pensacola, FL, for 180 days. Supporting shipper(s): International Paper Co., P.O. Box 160707, Mobile, AL 36616. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 139973 (Sub-No. 47TA), filed May 22, 1978. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, 909 Brown Street, Fulton, MO 65251. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except commodities the transportation of which because of size or weight require the use of special equipment), (1) from the facilities of Keystone Consolidated Industries, Inc., at or near Peoria, IL, to Greenville, MS, and; (2) from the facilities of Keystone Consolidated Industries, Inc., at or near Greenville, MS, to points in AR, TN, TX, LA and OK, for 180 days. Supporting shipper(s): Keystone Steel & Wire, Division of Keystone Consolidated Industries, Inc., Peoria, IL 61641. Send protests to: Veron V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 141033 (Sub-No. 40TA), filed April 21, 1978. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91749. Applicant's representative: A. J. Swanson, of Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Animal, fish, and poultry feed supplements*, (except frozen commodities and commodities in bulk), from the plantsite of Hoffmann-LaRoche, Inc., at or near Fort Worth, TX, to Henderson, KY, and points in AR, LA, MS, and MO, restricted to traffic originating at the plantsites of Hoffmann-LaRoche, Inc., at or near Fort Worth, TX, and destined to points in the named destination States, for 180 days. Supporting shipper(s): Hoffmann-LaRoche, Inc., One Sunset Avenue, Montclair, NJ 07042. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 141274 (Sub-No. 5TA), filed April 12, 1978. Applicant: C. C. ANKENY, INC., P.O. Box 1034, Whittier, CA 90609. Applicant's representative: C. C. Anthony, P.O. Box 1034, Whittier, CA 90609. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Thermal or weather-proofing products, viz: weatherstripping and aluminum parts thereof; plastic fibre or sheet; tape sealing or masking, insulation or filters; fiberglass*, from the plantsites of Thermwell Products, Inc., at Patterson, NJ, to the plantsites at Los Angeles, CA, under a continuing contract, or contracts, with Thermwell Products Co., Inc., for 180 days. Supporting shipper(s): Thermwell Products Co., Inc., 150 East Seventh Street, Patterson, NJ 07524. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 142948 (Sub-No. 9TA), filed May 25, 1978. Applicant: THE GRADER LINE, INC., 434 Atlas Drive, Nashville, TN 37211. Applicant's representative: Edward C. Blank II, Middle Tennessee Bank Building, P.O. Box 1004, Columbia, TN 38401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shoes, shoe findings, store supplies, including advertising materials, and packaging and clothing*, from warehouse sites of Genesco, Inc., in Nashville, TN, and Huntsville, AL, to points in the States of CA, UT, and AZ, for 180 days. Supporting shipper(s): Genesco, Inc., 111 Seventh Avenue, North, Nashville, TN 37202. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 143363 (Sub-No. 1TA), filed May 25, 1978. Applicant: VOLUNTEER TRANSPORTATION, INC., Route 6, McMinnville, TN 37110. Applicant's representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes, parts and accessories thereto*, between Ogden, UT; Forest Park, GA; Palo Pinto, TX, and Richmond, KY on the one hand and, on the other, points in the United States (excluding HI), which have been declared by the President of the United States as disaster areas, for 180 days. Supporting shipper(s): Office of Emergency Preparedness, U.S. Department of Housing and Urban Development, Room 6268, 451 Seventh Street SW., Washington, DC 20410. Send protests to:

Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 144122 (Sub-No. 11TA), filed May 24, 1978. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Applicant's representative: Joseph Carretta, South 160, Route 17 North, Paramus, NJ 07652. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities, moving on freight forwarder bills of lading (except articles of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and commodities which require special equipment)*, between the Chicago, IL commercial zone and the New York, NY commercial zone, for 180 days. Supporting shipper(s): C. S. Green & Co., Inc., Two Illinois Center, 233 North Michigan Avenue, Chicago, IL 60601. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

No. MC 144571 (Sub-No. 1TA), filed May 4, 1978. Applicant: ALBERT LEE HERBERT, d.b.a. ALH, P.O. Box 297, Iota, LA 70543. Applicant's representative: Albert Lee Hebert, P.O. Box 297, Rural Iota, Iota, LA 70543. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough-sawn lumber*, from Chester, TX, to points having a destination in the following LA parishes: Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, LaFourche, Livingston, Orleans, Plaquemines, Point Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, and Vermilion, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Elder Pallet & Lumber Sales, Inc., P.O. Box 1221, Opelousas, LA 70570. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 144667 (Sub-No. 1TA), filed May 3, 1978. Applicant: ARTHUR E. SMITH & SON TRUCKING, INC., P.O. Box 1054, Scottsbluff, NE 69361. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate

as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cellulose insulation and materials, equipment, and supplies* utilized in the sales and distribution thereof, from Scottsbluff, NE, to points in SD, ND, WY, MT, CO, KS, IA and MO, and (2) *materials, equipment, and supplies* utilized in the manufacture, sales, and distribution of commodities named in (1) above, from points in the destination States named above in (1) to Scottsbluff, NE, and (3) *fire retardant products*, from Torrington, WY, and points in its commercial zone to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Larry Meyers, President, Plains Insulation, Inc., 401 South Beltline Highway East, Scottsbluff, NE 69361. (2) Donald M. Steen, President, Chemicals International Ltd., 818 South Beltline Highway East, Scottsbluff, NE 69361. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 144668TA, filed April 24, 1978. Applicant: G & W TRANSPORTATION, INC., P.O. Box 1769, Tupelo, MS 38801. Applicant's representative: James N. Clay III, 2700 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated boxes, materials, and supplies* used in the manufacture, sale, and distribution of corrugated boxes, from points in KY, TN, LA, MO, TX, OK, and AR, to Tupelo, MS. Restriction: Restricted to service performed under a continuing contract, or contracts, with General Packaging Specialties, Inc., of Tupelo, MS, and Great Southern Box Co., Inc., of Tupelo, MS; and (2) *polyurethane carpet padding*, from Tupelo, MS, to points in AL, AR, LA, OK, and TX. Restriction: Restricted to service rendered under a continuing contract, or contracts, with General Felt Industries, Inc., of New York, NY, and Olympic Products Co., division of Cone Mills Corp. of Tupelo, MS, for 180 days. Supporting shipper(s): (1) Great Southern Box Co., Inc., P.O. Drawer 1769, Tupelo, MS 38801; (2) General Packaging Specialties, Inc., P.O. Drawer 1769, Tupelo, MS 38801; (3) Olympic Products Co., division of Cone Mills Corp., 1116 South Canal Street, Tupelo, MS 38801; (4) General Felt Industries, Inc., Park 80 Plaza West-One, Saddle Brook, NJ 07662. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

No. MC 144717TA, filed May 3, 1978. Applicant: PERLEY D. CARMICHAEL, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

CHAEI, d.b.a. Carmichael Bros., U.S. Hwy No. 1, Littleton, ME 04406. Applicant's representative: Robert G. Parks, 20 Walnut Street, First Floor, Wellesley Hills, MA 02181. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith, equipment, materials, and supplies, used in the conduct of such business, from the facilities of First National Stores, Inc., at Windsor Locks, CT, to points in Aroostook County, ME, and to Rockland, Bangor, Waterville, and Old Town, ME, under a continuing contract, or contracts, with First National Stores, Inc., for 180 days. Supporting shipper(s): First National Stores, Inc., 500 North Street, Windsor Locks, CT 06096. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl Street, Portland, ME 04111.*

No. MC 144730 (Sub-No. 1TA), filed May 23, 1978. Applicant: VERLE BRUBAKER, P.O. Box 95, South English, IA 52335. Applicant's representative: Ron Brubaker (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Agricultural machinery, from Keota, IA, to various points in the United States (excluding AK and HI), under a continuing contract, or contracts, with Ray-Man, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ray-Man, Inc. 515 East Broadway, Keota, IA 52248. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.*

No. MC 144805TA, filed May 25, 1978. Applicant: M-K TRUCKING, INC., 810 First Street South, Hopkins, MN 55343. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: (1) *Kitchen and bathroom cabinets, from Fergus Falls, MN, to all points in the United States (except AK and HI), and (2) materials, equipment, and supplies used in the manufacture of kitchen and bathroom cabinets, from all points in the United States (except AK and HI), to Fergus Falls, MN, under a continuing contract, or contracts, with Medallion Kitchens, Inc., Hopkins, MN, for 180 days. Supporting shipper(s): Medallion Kitchens, Inc.,*

810 First Street South, Hopkins, MN 55343. Send protests to: Delores A Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 144835TA, filed June 1, 1978. Applicant: LARRY BERRY, P.O. Box 698, Haleyville, AL 35565. Applicant's representative: Larry Berry (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Lumber and lumber products, from Haleyville, AL, to TN, MO, IA, MN, MI, WI, IL, IN, OH, PA, NY, WV, and KY, for 180 days. Applicant will also operate as a private carrier, transporting his own lumber. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fulco Lumber Co., P.O. Box 617, Haleyville, AL 35565. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.*

No. MC 144836TA, filed May 30, 1978. Applicant: TWIN CITY GRAIN DELIVERY, INC., Goldthwaite Road, P.O. Box 1115, Auburn, ME 04210. Applicant's representative: George S. Isaacson, 140 Lisbon Street, Lewiston, ME 04240. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Mixed poultry feed and ingredients, from the feed mill facilities of Agway, Inc., in Manchester, NH, to points in ME, under a continuing contract, or contracts, with Agway, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Agway, Inc., 62 Academy Street, Auburn, ME 04210. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 76 Pearl Street, Room 305, Portland, ME 04111.*

No. MC 144837TA, filed May 31, 1978. Applicant: WESTPORT TRUCKING, INC., 1205 Northwest Marshall, Portland, OR 97209. Applicant's representative: Steven R. Schell, 12th Floor, 707 Southwest Washington Street, Portland, OR 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Floor, wall, and countertop coverings, loose or in packages, including composition tile, cartoned and uncartoned plastic laminates, packaged and unpackaged metal moldings, and adhesives, from Portland, OR, to points in*

Siskiyou, Shasta, and Tehama Counties, CA; and (2) *commodities listed in (1) above, from Los Angeles, CA, to points in Klamath, Jackson, Josephine, Coos, Douglas, Lane, Benton, Linn, and Marion Counties, OR, and to Portland, OR, under a continuing contract, or contracts, with the Cronin Co., for 180 days. Supporting shipper(s): The Cronin Co., 1205 Northwest Marshall Street, Portland, OR 97209. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, OR 97204.*

No. MC 144839TA, filed May 30, 1978. Applicant: MURRAY'S EXPRESS, INC., c/o Thomas Tucker, 135 English Village Road, Apt. 103, Manchester, NH 03102. Applicant's representative: Fred L. Potter, Sulloway, Hollis, Godfrey & Soden, 9 Capitol Street, P.O. Box 1256, Concord, NH 03301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, soap, and costume jewelry between all points within the State of NH, restricted to transportation service to be performed under a continuing contract, or contracts, with Avon Products, Inc., of Rye, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Avon Products, Inc., Rye, NY 10581. (Attn.: James L. Fogarty, Transportation Manager). Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Loudon Road, Concord, NH 03301.*

No. MC 144846TA, filed June 1, 1978. Applicant: TRANSTATES, INC., 3216 East Westminster, Santa Ana, CA 92703. Applicant's representative: David P. Christianson, Knapp, Stevens, Grossman & Marsh, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Transformers and related electrical switching equipment, from Jefferson City, MO, to CA, OR, WA, AZ, NV, UT, MT, ID, ND, and SD, for 180 days. Supporting shipper(s): Westinghouse Electric Corp., 290 Leger Road, Huntington, PA 15642. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.*

By the Commission.

NANCY L. WILSON,  
Acting Secretary.

[FR Doc. 78-18485 Filed 7-3-78; 8:45 am]



# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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### [6320-01]

1

#### CIVIL AERONAUTICS BOARD.

Notice of addition of item to the June 29, 1978, agenda; M-144, Amdt. 4, June 6, 1978.

TIME AND DATE: 2 p.m., June 29, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1a. Docket 32921, Application of Airlift International, Inc., McDonnell Douglas Finance Corp., First Greyhound Leasing Co. for a disclaimer of jurisdiction (BPDA).

STATUS: Open.

#### PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

#### SUPPLEMENTARY INFORMATION:

This application was received by the Dockets Section at 10:50 a.m., June 28, with Board action requested on or before June 30. The applicants seek a Board action by June 30, 1978, to avoid the loss of \$12.6 million in tax credits. The draft order was completed by the staff at 1 p.m., June 29. Accordingly, the following Members have voted that agency business requires the addition of this item to today's agenda as item 1a and that no earlier announcement was possible:

Chairman, Alfred E. Kahn  
Vice Chairman, G. Joseph Minetti  
Member, Lee R. West  
Member, Richard J. O'Melia

[S-1385-78 Filed 6-30-78; 3:41 pm]

### [6730-01]

2

#### FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 27641, June 26, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., June 30, 1978.

CHANGES IN THE MEETING: Addition of the following items to the open session:

2. Application for extension of Agreement No. 10140 between the Gulf/United Kingdom and Seatrain International S.A. and United States Lines.

3. Tariff strike provisions of Conferences serving Pacific Coast Ports.

[S-1382-78 Filed 6-30-78; 11:13 am]

### [6210-01]

3

#### BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, July 7, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

#### MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.

2. Any agenda items carried forward from a previously announced meeting.

#### CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: June 29, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.

[S-1384-78 Filed 6-30-78; 3:41 pm]

### [7020-02]

4

[USITC SE-78-33]

#### UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Wednesday, July 5, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

#### MATTERS TO BE CONSIDERED: 1.

Status of the grievance of Mr. Shewmaker.

#### CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1386-78 Filed 6-30-78; 3:41 pm]

### [7020-02]

5

[USITC SE-78-32]

#### UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, July 13, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

#### MATTERS TO BE CONSIDERED:

1. Welded stainless steel pipe and tube (Inv. AA1921-180)—briefing and vote.

2. Agenda.

3. Minutes.

4. Ratifications.

5. Petitions and complaints (if necessary):

a. Fabricated steel (Docket No. 521),

b. Portland cement from Canada (Docket No. 522), and

c. Certain fish from Canada (Docket No. 523).

6. Consideration of P.O. 12044 (Improving Government Regulations).

7. Any items left over from previous agenda.

#### CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1387-78 Filed 6-30-78; 3:41 pm]

### [3210-01]

6

#### OVERSEAS PRIVATE INVESTMENT CORPORATION (Meeting of the Board of Directors).

TIME AND DATE: Meeting of the OPIC Board of Directors, Tuesday, July 11, 1978 at 9 a.m. (closed portion); 10:30 a.m. (open portion).

PLACE: Offices of the Corporation, Seventh Floor Board Room, 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9 a.m. to 10:30 a.m. will be closed to the public. The open portion of the meeting will start at 10:30 a.m.

#### MATTERS TO BE CONSIDERED:

Closed to the public, 9 a.m. to 10:30 a.m.

**SUNSHINE ACT MEETINGS**

1. Personnel matters.
2. Revised agreement with Andean Pact Countries.
3. Insurance project in Caribbean.
4. Insurance project in Middle East.
5. Human rights: Review of projects in three countries.
6. Claims report.
7. Information reports.

**FURTHER MATTERS TO BE CONSIDERED:**

Open to the public, 10:30 a.m.

1. Approval of the minutes of the previous meeting.
2. Confirmation of CY-1978 Board meetings.
3. Testimonials.
4. Status of construction insurance.
5. Preferences for small investors/cooperatives.
6. Regulations for suspension related to Foreign Corrupt Payments Act.
7. Criteria for investment projects.
8. Investor mission program.
9. Multilateral investment incentives.

**CONTACT PERSON FOR INFORMATION:**

Information with regard to this meeting may be obtained from the Secretary of the Corporation at 202-632-1839.

ELIZABETH A. BURTON,  
*Corporate Secretary.*

JUNE 30, 1978,

[S-1383-78 Filed 6-30-78; 11:13 am]



**WEDNESDAY, JULY 5, 1978**

**PART II**



---

**DEPARTMENT OF  
THE INTERIOR**

**Bureau of Land  
Management**



**RANGE MANAGEMENT  
AND TECHNICAL  
SERVICES**

**Grazing Administration and  
Trespass Regulations**

[4310-84]

## Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND  
MANAGEMENT, DEPARTMENT OF  
THE INTERIOR

[Circular No. 2433]

RANGE MANAGEMENT AND  
TECHNICAL SERVICES

## Grazing Administration and Trespass

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: Rulemaking updates livestock grazing regulations for public lands and adds provisions required by the Federal Land Policy and Management Act of 1976. Changing and increasing land use demands and passage of the new act necessitate new rulemaking. This rulemaking changes the grazing regulations to allow for management flexibility to achieve multiple use, sustained yield, environmental, economic, and other objectives.

DATE: Effective August 4, 1978.

ADDRESS: Director (330), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION,  
CONTACT:

Maxwell T. Lieurance, Division of Range (330), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240, 202-343-6011.

SUPPLEMENTARY INFORMATION: The principal author of this final rulemaking is Allan W. Strobel of the Bureau of Land Management, Washington Office, Division of Range Management, assisted by staff of the Division of Legislation and Regulatory Management and Gail L. Achterman and Carolyn P. Osolinik of the Solicitor's Office, Department of the Interior.

Proposed rulemaking was first published in the FEDERAL REGISTER July 28, 1976. On October 21, 1976, the Federal Land Policy and Management Act was signed into law. The act required substantive changes in the initial proposed rulemaking. On July 8, 1977, proposed rulemaking was again published to include changes required by the Federal Land Policy and Management Act. It also reflected comments on the first proposed rulemaking. The proposed rulemaking, as amended, appeared on pages 35334-35344 of the FEDERAL REGISTER of July 8, 1977.

Comments were invited for 60 days ending September 6, 1977. Approximately 225 letters were received from individuals and groups many of whom

had analyzed the proposed grazing regulations and submitted good thoughtful comments and suggestions. These letters have been reviewed and analyzed. The following summarizes the comments and suggestions received and the action taken on them.

## OBJECTIVES

As suggested in a number of comments, the objectives of these regulations, under § 4100.0-2, are to "administer" livestock grazing on the public lands in a manner that will "protect" the land and its resources, etc., and not to "manage" livestock grazing on the public lands and to "preserve" the land and its resources, etc. We have changed the language of the objectives section so as to accurately reflect the objectives of the rulemaking.

## DEFINITIONS

In response to several comments, and recommendations that certain terms be clarified, definitions were added to § 4100.0-5 for the terms "indigenous animal," "land use plan," "service area," and "supplemental feed." A large number of commenters requested that the regulations specify in the definition section who the "authorized officer" is. We feel the definition adequately describes who the authorized officer is. As further clarification, only the Director, State Director, District Manager or Area Manager have been "authorized" by the Secretary to act pursuant to these regulations. Any further delegation will be made public before it is instituted by the Department.

## MANDATORY QUALIFICATIONS

As suggested, a change has been made in the provision under § 4110.1 which states that a corporation is qualified for grazing use on the public lands if it is authorized to conduct business in the State in which the grazing use is sought and if the controlling interest is vested in citizens of the United States. The citizenship requirement for the controlling interest has been deleted. This section now provides that a corporation is qualified for grazing use on the public lands if it is authorized to conduct business in the State in which the grazing use is sought.

## GRAZING PREFERENCE ALLOCATION

It was suggested in a number of comments that the rulemaking should establish an equitable system for allocating forage among competing uses such as livestock and wildlife, under § 4110.2-2. Some commenters suggested that livestock should be given preference while others suggested that wildlife and other nonlivestock resources should be given preference.

Under the Bureau of Land Management's planning system, no particular

land or resource use is given preference. In the planning process, each use is given equal consideration with all other uses in light of social, economic, environmental, and other pertinent information, and public comment and suggestions. During the planning process, areas may be identified as particularly valuable for livestock grazing, mining, timber production, wildlife, recreation, wild horses or burros, etc. Decisions are made during planning as to the land or resource use or uses for which an area will be managed and the vegetative and other resources will be allocated as appropriate.

These grazing regulations apply to the administration of livestock grazing on the public lands after it has been determined through the planning process what areas and how much forage are available for livestock grazing. Actions under these regulations must be consistent with the multiple use, sustained yield, environmental, economic, and other objectives included in the land use plans. Vegetative allocations are not made under these regulations, and even if they were, it would not be appropriate to include a specific priority or preference applicable to all public lands.

Serious concern was expressed in several of the comments about how these grazing regulations will affect the livestock operators now authorized to graze on the public lands administered by the Bureau of Land Management. Livestock operators with a grazing license, permit, or lease will be recognized as having a preference for continued grazing use on these lands. There adjudicated grazing use, their base properties, and their areas of use (allotments) will be recognized under these grazing regulations.

## DECREASES IN FORAGE

The proposed regulations provided for cancellation of grazing permits or grazing leases and grazing preferences in whole or in part under § 4110.3-2 when the authorized grazing use exceeds the amount of forage available for livestock grazing within an allotment. It was suggested that this should not apply when the amount of forage available is reduced on a temporary basis in the case of drought, fire, or other short term situation. In response to these suggestions, the regulations have been changed to provide for suspension of grazing permits or leases, instead of cancellation, when the authorized grazing use exceeds the amount of forage available for livestock grazing within an allotment on a temporary basis.

## CONFLICTING APPLICATIONS

Some comments suggested that it is illegal to consider whether or not an applicant will allow public ingress and egress across his privately owned or

controlled lands for public access to public lands in allocating livestock grazing use among conflicting applicants. This provision is only one of a number of factors listed under § 4110.5 that may be used in determining allocation of grazing use among conflicting applicants. This provision has been used historically in administering grazing lands leased under section 15 of the Taylor Grazing Act. This provision has been retained in this final rule-making.

#### KIND/CLASS OF LIVESTOCK

Some comments suggested that the authorized officer should not specify the kind or class of livestock in grazing permits or leases. Section 4120.2-1 has been changed to provide that the authorized officer shall specify the kind of livestock. Under a new § 4120.2-2, he may specify the class of livestock. The authorized officer must have the authority to specify kind of livestock because certain public lands are better suited for grazing by one kind of livestock than another since different kinds of livestock use different kinds of forage. The authorized officer may also specify the breed and class of livestock since this is sometimes necessary for good range management. These provisions now appear in § 4120.2-2.

#### SUPPLEMENTAL FEEDING

A number of comments suggested that supplemental feeding of livestock on the public lands should be at the discretion of the permittees or lessees and that the authorized officer should have no control over when or where supplements are fed. The Bureau of Land Management understands the need for supplemental feeding. It is not the intent of § 4120.2-2 of the regulations that the authorized officer direct the permittees or lessees to feed supplements to their livestock or to dictate what supplements should be fed. The Bureau of Land Management recognizes that under certain emergency conditions, such as deep snow, feeding supplements may be necessary. The Bureau also recognizes that supplemental feeding, unless properly controlled, tends to concentrate livestock. This may damage the basic vegetative-soil resources and must be prevented. If the feeding of concentrates or harvested feed, such as hay, becomes maintenance feeding rather than supplemental feeding, it indicates that the range is too heavily stocked and that action should be taken to adjust livestock use to the livestock grazing capacity. Placement of supplements also can affect other resource values such as archeological sites, critical wildlife areas, etc., and must be controlled to reduce these impacts.

#### ALLOTMENT MANAGEMENT PLANS

Several comments suggested that allotment management plans should in-

clude State and private lands only with the owner's consent. The Federal Land Policy and Management Act of 1976 provides that allotment management plans shall not refer to livestock operations or range improvements on non-Federal lands except where the non-Federal lands are intermingled with Federal lands or with the consent of the permittees or lessees where the non-Federal lands are associated with the Federal lands in the plan. Section 4120.2-3 of the regulations implements this provision of the Act adding only that these non-Federal lands must be unfenced as well as intermingled before they will be included in allotment management plans. It is not the intent of the Bureau of Land Management to take over the management of private and State owned lands. However, it is impossible to avoid considering some of these lands because of the particular management actions that may be required on unfenced intermingled public lands. In some cases this problem can be alleviated by fencing private and State lands so that they can be used separately from the public lands. In other cases, however, fencing would be impractical. Differences will develop and in some cases unpopular decisions may have to be made because of the requirements of various laws relating to the management of the public lands. This cannot be avoided but we hope will be addressed with a reasonable attitude by all parties involved. The Bureau of Land Management will strive to use exchange of use permits wherever possible in cases where major differences do arise. The utility of exchange of use permits has been broadened with these considerations in mind.

#### CLOSURE TO LIVESTOCK

Many comments suggested a change in the provisions under § 4120.3 of the regulations on closure to livestock. Some felt that the 2-year prior notification required by the Federal Land Policy and Management Act in other situations should apply; others felt that this section should apply to specific emergency situations, and others suggested that closure should occur only after approval by the permittee or lessee. The intent of this section is to provide for temporary closure for the protection of the soil, vegetative, or other resources on the public lands because of drought, fire, or other similar reasons. The regulations have been changed to include this reference to emergency situations. To be effective, the authorized officer must be able to close lands on very short notice. The 2-year notification requirement does not apply to a temporary closure of public lands because these closures can only be ordered in emergencies.

The 2-year prior notification requirement applies when the public

lands will be devoted to another public purpose which precludes livestock grazing or when the Bureau of Land Management disposes of public lands. A specific exception is made for emergencies in these cases too.

#### RANGE IMPROVEMENTS

It was suggested that all range betterment funds should go back to the district or resource area from which the grazing fees were collected. Other suggestions were that the funds should be used only for materials and labor related to range improvements and that these improvements should be for the benefit of livestock grazing and not for wildlife or other resources. Section 4120.6 of the regulations, in keeping with the provisions of the Federal Land Policy and Management Act, provides that one-half of the range betterment fund shall be available for range improvements in the district from which the grazing fees were collected. The other one-half shall be available for range improvements at the discretion of the Director. In addition to materials and labor, range betterment funds shall be used for other things related to the installation, maintenance, or modification of range improvements such as planning, environmental assessment, design, survey, equipment purchase or rental, and supervision. These actions are considered an integral part of on-the-ground rehabilitation, protection, and improvement of the public lands. Range betterment funds should be used to improve fish and wildlife habitat and watershed protection as well as forage conditions and livestock production, as Congress recognized in section 401(b)(1) of the Federal Land Policy and Management Act.

#### COOPERATIVE AGREEMENTS/RANGE IMPROVEMENT PERMITS

In regard to maintenance of range improvements, these regulations do not require the permittee or lessee to get another permit to do maintenance work every time maintenance is needed. Maintenance responsibility will be specified in the cooperative agreements and range improvement permits, under §§ 4120.6-1 and 4120.6-2, when the improvements are authorized on the public lands.

#### GRAZING PERMITS AND LEASES

A number of comments were received suggesting that all grazing permits and leases be issued for 10-year terms. Several comments were made regarding the kinds of grazing permits and leases. The proposed regulations published on July 8, 1977, provided for the issuance of "regular," "management," and "custodial" grazing permits and leases. Although the term "custodial" was used nowhere else in

the proposed regulations, the general interpretation was that these custodial permits and leases would be issued to authorized livestock grazing on custodial allotments and that these allotments would be under custodial management. The term "custodial" has been interpreted in many ways. In many instances, the term "custodial management" has been interpreted to mean that management of the forage available for livestock grazing on public lands in custodial allotments will be at the discretion of permittees and lessees.

The Bureau of Land Management cannot abdicate its management responsibilities on the public lands. The Bureau is required to specify numbers of livestock, periods/seasons of use, and how it will manage livestock grazing on all allotments and is required to supervise grazing use to assure compliance with the regulations and terms and conditions of the grazing permits and leases. To prevent any misunderstanding or confusion concerning different kinds of grazing permits and leases, the regulations, in § 4130.2, have been changed to provide for one kind of permit or lease that will simply be called a "grazing" permit or lease. Terms and conditions, including allotment management plans, needed to achieve the management objectives for the public lands involved, will be incorporated into the grazing permits and leases. In respect to kinds of grazing permits and leases, the regulations parallel the Forest Service regulations which were published as final rules on October 28, 1977.

The provisions relating to terms of permits have been rewritten to reflect more clearly the language and intent of section 402(3) of FLPMA. Under the regulations as now written, grazing permits or leases will be offered to qualified livestock operators for a term of 10 years. Exceptions will be on a case-by-case basis and may be made only where there is good evidence that the issuance of a 10-year permit or lease would be detrimental to sound public land management or where the lands involved are pending disposal or will be devoted to another public purpose which precludes livestock grazing prior to the end of 10 years.

The terms and conditions of the permits and leases will provide that if problems with numbers of livestock, periods of use, or grazing capacity are later identified through the planning process and environmental assessment that appropriate adjustments in grazing use can be made.

#### FREE-USE GRAZING PERMITS

Several comments registered concern that the issuance of free-use grazing permits under § 4130.3 might result in reductions in established and recognized livestock operations on the

public lands. The issuance of free-use grazing permits for livestock under regulations developed by the Secretary is mandated by section 5 of the Taylor Grazing Act. We have amended this section to make this clear.

#### PAYMENTS OF FEES

Paragraph (a) under § 4130.5-1, relating to the annual establishment of grazing fees by the Secretary of the Interior, is reserved. Proposed rulemaking further amending this section was published in the FEDERAL REGISTER on November 23, 1977. Upon publication of this section as final rulemaking at a later date, it will be incorporated into these regulations. In the proposed rulemaking, this paragraph was shown as paragraph (c); it will be changed to paragraph (a) in the final rulemaking.

Many comments indicated there was confusion over § 4130.5-1(b) concerning the age livestock must reach before fees can be charged for grazing on the public lands. This section has been changed to coincide with the Forest Service regulations. The full fee shall be charged for all animals 6 months of age or over at the time of entering public lands, for all weaned animals regardless of age, and for the animals that will become 12 months of age during the authorized period of use. No charge will be made for animals under 6 months of age at the time of entering public lands, that are the natural progeny of animals upon which fees are paid, provided they do not become 1 year old during the authorized period of use. No charge will be made for progeny born during the authorized period of use.

#### SERVICE CHARGE

Many comments recommended eliminating the service charge for each transfer of grazing preference and for each revised or supplemental billing notice initiated by the permittees or lessees. The service charge will be retained; however, it has been reduced from \$25 to \$10. The service charge will be the same as the minimum annual grazing fee of \$10 and the minimum charge for each crossing permit, which is also \$10. The establishment of a service-charge is provided for under section 304 of the Federal Land Policy and Management Act. Section 4130.6 of these regulations has been changed to provide that the service charge will be charged when changes in grazing use are approved and billing notices related to the affected grazing use have to be revised. To avoid the service charge, applications for changes in grazing use must be filed before billing notices are issued.

#### ACTS PROHIBITED ON PUBLIC LANDS

Several comments indicated that the acts prohibited by § 4140.1 should

apply to everyone and not just to grazing permittees and lessees. The words "permittees and lessees" have been deleted from the first sentence in this section.

Some commenters understood § 4140.1(b) to mean that non-use by permittees or lessees would jeopardize their grazing permits or grazing leases and grazing preferences. Making "substantial" grazing use as authorized does not require that the permittee or lessee make total active use each year. Sections 4130.1 and 4130.2 of the regulations provide for taking nonuse. Making substantial grazing use includes making nonuse as authorized. This provision now appears in § 4140.1(a)(2). Numerous comments were made suggesting that § 4140.1(c) be deleted. This section has been reworded and retained in the regulations. This provision now appears in § 4140.1(a)(3). It provides that supplemental feed cannot be placed on the public lands and other lands under Bureau of Land Management control without authorization. Salt may be placed on the public lands at the discretion of the permittee or lessee; however, under § 4120.2-2(c), the authorized officer may direct where salt is placed on these lands.

Some comments suggested the deletion of changing of § 4140.1(e), which provides that failure to finance range improvements when so directed by the authorized officer is a prohibited act. This section was changed to provide that refusing to install, maintain, modify, or remove range improvements when so directed by the authorized officer is a prohibited act. This provision now appears in § 4140.1(a)(5). Section 4140.1 has been divided into two paragraphs which show that violators of some of the prohibited acts may be subject to civil penalties while violators of other prohibited acts may be subject to criminal, as well as civil penalties. This division into two classes of prohibited acts is based on a decision that those acts in (a) are not criminal in nature and should not be subjected to criminal sanctions.

#### UNAUTHORIZED GRAZING USE/ SETTLEMENT

Comments regarding settlement for unauthorized grazing use under § 4150.3 included suggestions that settlement fees should be reduced, that nonwillful violators should not have to make settlement, and that willful violators should not have their permits or leases suspended or canceled.

This section has been retained with a slight change which provides that for violations to be considered "repeated" it must also be determined that the violations are "willful". The amounts due in settlement for unauthorized grazing use provided for

under this section are considered fair to the general public and not unjustly severe to the violator. The intent of this provision is to discourage unauthorized grazing use. The suspension of a grazing permit or grazing lease in whole or in part or the cancellation of a grazing permit or grazing lease and grazing preference in whole or in part under § 4170.1 for repeated, willful unauthorized grazing use will also act as a further deterrent to such use.

Common sense and discretion will be employed in the application of the provisions of these regulations relating to unauthorized grazing use. Where prompt corrective action is taken by permittees and lessees or in cases where the unauthorized grazing use is of an innocent nature, appropriate action can be taken under these regulations. However, the authority is there, when it is needed, to effectively handle cases of unauthorized grazing use.

#### UNAUTHORIZED GRAZING USE/ IMPOUNDMENT

A number of comments suggested that impoundment and sale of unauthorized livestock under § 4150.5 should be under State law. The regulations provide that the Bureau of Land Management will impound unauthorized livestock grazing on the public lands when impoundment is necessary. Where a suitable agreement with the State is in effect, the impounded livestock may be turned over to the State for appropriate action.

Where the State has not entered into a suitable agreement with the Bureau Of Land Management, the authorized officer shall sell, or otherwise dispose of, the impounded livestock under these regulations. When livestock are sold by the authorized officer under these regulations, he furnishes the purchaser a bill of sale. The purchaser enjoys all privileges related to ownership of those livestock.

#### DECISIONS/PROTESTS/APPEALS

Comments were made that the permittees and lessees should have the right to protest and/or appeal decisions of the authorized officer under specific sections of the regulations. Rather than include the right of protest and/or appeal in each section under which a decision may be issued, the right to protest and/or appeal any decision issued under these regulations is provided in §§ 4160.2 and 4160.4. Any applicant, permittee, lessee, or any other person whose interest is adversely affected by a proposed decision of the authorized officer may protest the decision to the authorized officer. Any applicant permittee, lessee, or any other person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision to an Administra-

tive Law Judge. Decisions of an Administrative Law Judge may be appealed for review to the Interior Board of Land Appeals.

The administrative remedies included in these regulations are the same administrative remedies which are in the current grazing regulations. The only difference is that the same remedies now apply to the applicants and permittees under section 3 of the Taylor Grazing Act as well as to the applicants and lessees under section 15 of that act. Previously, the remedies pertaining to section 3 were different from those pertaining to section 15.

#### SHOW CAUSE

Because of the necessity to impose timely disciplinary action when a permittee or lessee has willfully or repeatedly violated provisions of these regulations, § 4160.5, providing for show cause, has been added to these regulations. When it is deemed advisable, the authorized officer shall serve a show cause notice on the permittee or lessee, stating the alleged violation and citing the permittee or lessee to appear before an administrative law judge at a designated time and place to show cause why his grazing permit or grazing lease should not be suspended in whole or in part or why his grazing permit or grazing lease and grazing preference should not be canceled in whole or in part.

#### FEDERAL OR STATE LAWS OR REGULATIONS

Some commenters suggested deletion of § 4140.1(L), which provides that violating any Federal or State laws or regulations concerning conservation or protection of natural and cultural resources or the environment is a prohibited act under these regulations and deletion of § 4170.1-2 which provides the penalty for such actions. They contend that these provisions are unfair because they punish the permittees and lessees twice, once under the conservation laws or regulations violated and then again under these regulations. Other commenters suggested that this section be strengthened to allow the authorized officer to make determinations about violations of other State and Federal statutes and regulations, and to penalize permittees and lessees when he found there had been violations. It would be a great administrative burden for BLM to enforce directly a myriad of unfamiliar statutes and regulations. The regulations attempt to strike a reasonable balance between the two. After careful consideration, both of these sections have been retained; § 4140.1(L) has been changed to § 4140.1(b)(8) and § 4170.1-2 has been changed to provide that a penalty may be imposed under these regulations where a permittee or lessee has

been found to be in violation of the conservation laws and regulations by a court of competent jurisdiction. These provisions are necessary because in some instances violation of these laws and regulations indicates that a permittee or lessee has insufficient regard for the public lands and their resources to warrant continuation of his preference. Violators who do not have a grazing preference on the public lands will be penalized under other laws and regulations, as applicable.

#### ADVISORY BOARDS

A few commenters suggested that grazing advisory boards should be established to help resolve conflicts and make recommendations to the authorized officer and that the regulations for these advisory boards be included in the grazing regulations. The Federal Land Policy and Management Act provides for establishment of grazing advisory boards if they are wanted by the permittees and lessees in an area. The boards are authorized to offer advice and make recommendations to the authorized officer concerning the development of allotment management plans and the utilization of range betterment funds. The regulations for grazing advisory boards will not be included in these regulations, but are included with other regulations related to advisory boards in subpart 1784.

#### WILD HORSES AND BURROS

Many comments reflected concern that §§ 4720.3, 4730.3, and 4730.4 of the wild horse and burro regulations, published with these regulations on July 8, 1977, contradicted the purpose and objectives of the grazing regulations. These sections were published word for word as formerly approved merely for the purpose of changing cross references to conform to the new grazing regulations. While there is specific direction in the wild horse and burro regulations relative to closing areas to livestock grazing and allocating all the available forage to wild horses and burros, this action depends on land use plans that specify areas which shall in fact be managed exclusively for wild horses or burros. These decisions are not made independently under the grazing administration or wild horse and burro regulations. The planning process provides for public participation during which all interested parties have the opportunity to make known their views and suggestions relative to proposals that may lead to these land use decisions.

#### CHANGES AND CORRECTIONS

Editorial changes and corrections have been made as necessary.

#### OTHER CHANGES

The proposed rulemaking of July 28, 1976, contained two changes in the ex-

## RULES AND REGULATIONS

isting grazing administration regulations that were not republished in the second proposed rulemaking of July 8, 1977. These two changes were not republished because no substantive comments were received on them as a result of the publication of the first proposed rulemaking on grazing administration and trespass. The first of these two changes is a recodification of the grazing administration regulations as they pertain to Alaska. This recodification is necessary to accommodate a change in the coding for the new grazing administration and trespass regulations, exclusive of Alaska. The second change is the deletion of all of the regulations now encompassed in group 4200 because they are no longer applicable.

## AUTHORITY

Under the authority of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315, 315(a)-315(r)), section 4 of the act of August 28, 1937 (43 U.S.C. 1181(d)), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), groups 4100, 4200, 4300, and 4700, subchapter D and group 9200, subchapter I, chapter II, title 43 of the Code of Federal Regulations are amended as set forth below.

GUY R. MARTIN,  
Assistant Secretary  
of the Interior.

JUNE 28, 1978:

1. Group 4200 is deleted from Subchapter D, Chapter II, Title 43 of the Code of Federal Regulations.

2. Part 4130 of group 4100 is recodified as group 4200 and 4300 as set forth below:

**Group 4200—Grazing Administration;  
Alaska; Livestock**

**PART 4200—GRAZING ADMINISTRATION;  
ALASKA; LIVESTOCK**

**Subpart 4200—Grazing Administration; Alaska;  
Livestock; General**

**Sec.**

- 4200.0-2 Objectives.
- 4200.0-3 Authority.
- 4200.0-5 Definitions.

**Subpart 4210—Conditions**

- 4210.1 Grazing districts.
- 4210.2 Land subject to lease.
- 4210.3 Qualifications of applicants.
- 4210.4 No right acquired by applicant prior to lease.

**Subpart 4220—Procedures**

- 4220.1 Applicants.
- 4220.2 Application for lease.
- 4220.3 Maximum number of stock.
- 4220.4 Annual rental.
- 4220.5 Reduction in excessive leased area.
- 4220.6 Free grazing permits.
- 4220.7 Leases.
- 4220.8 Stock driveways; crossing permits; quarantine regulations.

**Sec.**

- 4220.9 Range improvements.

**Subpart 4230—Disposition of Leased Lands**

- 4230.1 Settlement, location, and acquisition.
- 4230.2 Mineral prospecting, location, and purchase.

**Subpart 4240—Protests, Hearings, and  
Appeals**

- 4240.1 Protests.
- 4240.2 Hearings.

**AUTHORITY:** Taylor Grazing Act of 1934, as amended (43 U.S.C. 315, 315(a)-315(r)), section 4 of the act of August 28, 1937 (43 U.S.C. 1181(d)), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

**Subpart 4200—Grazing Administration; Alaska; Livestock; General**

**§ 4200.0-2 Objectives.**

The beneficial utilization of the public lands in Alaska for the purpose of livestock grazing shall be conducted in such manner as may be considered necessary and consistent with the purposes of the act but shall be subordinated to the development of their mineral resources, to their use for agriculture, to the protection, development, and utilization of their forests and to the protection, development, and utilization of such other resources as may be of greater benefit to the public.

**§ 4200.0-3 Authority.**

The act of March 4, 1927, as amended (43 U.S.C. 316, 316a-316o), authorizes the Secretary of the Interior to establish grazing districts upon any public lands in Alaska, surveyed or unsurveyed, outside of the Aleutian Islands Reservation, outside of national forests and other reservations administered by the Secretary of Agriculture and outside of national parks and monuments, and to lease such lands for the grazing of livestock thereon. Section 316f provides that a lease may be made for such term as the Secretary deems reasonable, but not to exceed 55 years, taking into consideration all factors that are relevant to the exercise of the grazing privileges.

**§ 4200.0-5 Definitions.**

As used in this subpart:

- (a) "Secretary" means Secretary of the Interior;
- (b) "Director" means Director, Bureau of Land Management;
- (c) "Authorized officer" or "manager" means the designated official of the Bureau of Land Management, in whose district the lands involved are situated, who has been delegated the authority to issue grazing leases;
- (d) "The act" means the act of March 4, 1927, as amended (43 U.S.C. 316, 316a-316o);
- (e) "Person" means individual, partnership, corporation, or association;

(f) "Native" means any member of the aboriginal races inhabiting Alaska, of whole or not less than half blood;

(g) "District" means any grazing district established under the act;

(h) "Animal unit month" means the forage consumed or grazing privileges represented by the grazing of one cow or its equivalent for 1 month. For the purpose of this definition, one cow shall be considered the equivalent of one horse, or five sheep or five goats.

**Subpart 4210—Conditions**

**§ 4210.1 Grazing districts.**

(a) *Establishment.* Pursuant to the act, grazing districts are hereby established, the boundaries of which shall be coextensive with the boundaries of the public land districts in Alaska.

(b) *Leases on acreage basis.* Grazing leases will be granted only for such areas as may be deemed adequate and usable according to the needs of the lessee. Leases will provide for grazing on a definite area, and on an acreage basis, except where peculiar local conditions or the difficulties of administration make more practicable a lease based on the number of livestock to be grazed.

**§ 4210.2 Lands subject to lease.**

Vacant, unreserved, and unappropriated public lands are subject to lease. Where these lands are embraced within the natural grazing grounds or routes of migration of animals such as caribou or moose, or have other important values for wildlife, the lands may be leased, in the discretion of the manager, subject to such special terms and conditions as may be determined. Except as to those reservations described in § 4200.0-3 public lands within the boundaries of a grazing district which have been withdrawn for any purpose may be leased with the prior consent of the Department or agency having administrative jurisdiction thereof and subject to such additional terms and conditions as such Department or agency may impose.

**§ 4210.3 Qualifications of applicants.**

An applicant for a grazing lease is qualified if the applicant:

- (a) Is a citizen of the United States, or
- (b) Has on file before a court of competent jurisdiction a valid declaration of intention to become a citizen, or a valid petition for naturalization, or
- (c) Is a group, association, or corporation organized under the laws of the United States or of any State or Territory thereof, authorized to conduct business in Alaska, and the controlling interest in which is vested in persons who would be qualified under either paragraph (a) or (b) of this section.



§ 4210.4 No right acquired by applicant prior to lease.

The filing of an application will not segregate the land applied for from application by other persons for a grazing lease, or from other disposition under the public land laws. As the issuance of a lease is discretionary, the filing of an application for a lease will not in any way create any right in the applicant to a lease, or to the use of the lands applied for pending the issuance of a lease. Any such unauthorized use constitutes a trespass.<sup>1</sup>

#### Subpart 4220—Procedures

##### § 4220.1 Applicants.

(a) *Classes of applicants and preference.* Applicants for grazing leases shall be given preference in the following order:

- (1) Natives.
- (2) Bona fide settlers.
- (3) Other qualified applicants.

(b) *Assertion of preference rights.* Any person claiming a preference right to a lease under paragraph (a) of this section must furnish with the application required under § 4220.2(a) a statement setting forth the facts on which such claim is made.

##### § 4220.2 Application for lease.

(a) *Form used.* An application for grazing lease must be executed in duplicate on a form approved by the Director, and filed with the manager.

(b) *Schedule of operations.* The application must be accompanied by a schedule of the applicant's proposed annual program to develop and increase the number of livestock which will be grazed on the land, and showing the applicant's need for all the land applied for, to provide forage for the maximum number of livestock which the applicant intends to graze thereon.

(c) *Financial responsibility.* The applicant, upon request by the manager, must also furnish evidence of his financial responsibility consisting of a showing that he has the financial means or has made arrangements with an established financial institution to provide the capital necessary to commence and maintain his proposed schedule of operations.

##### § 4220.3 Maximum number of stock.

The lease will indicate the maximum number of stock which may be grazed on the leased area, based on the condi-

tion of the range and its accessibility for summer and winter feeding. The manager may adjust the maximum number from time to time as the condition of the range may warrant.

##### § 4220.4 Annual rental.

(a) *Amount.* Unless otherwise provided, each lessee shall pay to the Bureau of Land Management such rental per acre, per head, or per animal unit month, as may be determined to be a fair charge for grazing of livestock on the leased land. The rental under any grazing lease may be adjusted every 3 years. The date for making the annual payment will be specified in the lease. If the rental is to be paid according to the number of animals grazed, no charge will be made for the natural increase of grazing animals until the beginning of the following lease year.

(b) *Adjustment or waiver.* The manager, if he determines such action to be in the public interest by reason of: (1) depletion or destruction of the range by any cause beyond the control of the lessee, or (2) calamity or disease causing wholesale destruction of or injury to livestock, may grant an extension of time for making payment, or reduce or waive the grazing fee under a lease so affected. An application for the desired relief should be filed with the manager and should state all pertinent details and itemize the losses sustained.

(c) *Payment.* The first rental payment required and the return of the proposed lease duly executed by the prospective lessee shall be made within 30 days of receipt of the lease form by the prospective lessee; if the rental is not paid or the lease is not returned within the prescribed time, the offer shall be null and void and of no effect, and all rights of the prospective lessee thereunder or under the application upon which it is based shall be considered as terminated. Subsequent rental payments for succeeding lease periods are payable in advance. In the event such payment is not received in the proper office by the last day of the current lease period or within the time prescribed in the billing notice whichever is the later, the case shall be considered canceled and all rights terminated thereunder as of the end of such current lease period; except the lease shall not terminate if the lessee submits payment to the proper office within a grace period of 60 days following the last day of the current lease period together with a showing satisfactory to the authorized office that the delay in rental payment was for unavoidable reasons and that termination of the lease would cause undue hardship to the lessee.

##### § 4220.5 Reduction in excessive leased area.

Whenever, in the opinion of the manager, the leased land is excessive for

the number of livestock to be grazed by the lessee, the manager may, after 30 days' notice to the lessee, reduce the lease area to the extent necessary, and the annual rental, if on an acreage basis, shall be reduced proportionately, effective at the beginning of the next lease year.

##### § 4220.6 Free grazing permits.

Any person may file application in duplicate on a form approved by the Director, for a permit to graze, free of charge, not to exceed the number of livestock whose products are consumed or whose work is directly and exclusively used by the applicant or his family, for a term of not more than 1 year.

##### § 4220.7 Leases.

(a) *Issuance of lease.* If the application is complete and it is determined that a lease should be issued, the manager will prepare a proposed lease, with necessary copies, on a form approved by the Director, for execution by the applicant. The forms, signed by the applicant, must be forwarded promptly to the manager, together with any required rental payment. The lease will be dated as of January 1 of the year in which it is issued, and the required rental for the first year will be adjusted on a pro rata monthly basis to cover that portion of the year subsequent to the lease issuance.

(b) *Report of grazing operations.* Before April 1 of the second lease year and each lease year thereafter, the lessee shall file with the manager a report, in duplicate, on a form approved by the Director, of his grazing operations during the preceding year.

(c) *Assignments.* No part of the leased land may be subleased. Any proposed assignment of a lease, in whole or in part, must be filed in duplicate with the authorized officer within 90 days of its execution. Assignments will be executed on a form approved by the Director and must be accompanied by the application on a form approved by the Director, executed in duplicate, together with the same showing by the assignee as to qualifications and stock development schedule as would be required of applicants for a new lease, including financial responsibility when specifically requested by the manager. The assignee's acceptance of the lease offered pursuant to the grazing lease assignment shall constitute his acceptance of the lease terms. No assignment will be recognized nor will it confer on the assignee any rights to the leased area until a lease therefor is issued to him.

(d) *Renewals.* An application for renewal of a grazing lease should be executed and filed in duplicate on a form approved by the Director not less than 4 months but not more than 8 months before the expiration date of the lease

<sup>1</sup> It is unlawful for any person to graze any class of livestock on the public lands in grazing districts in Alaska, except under authority of a lease or permit granted under the act. Any person who wilfully grazes livestock in such areas without such authority shall, upon conviction, be punished by a fine of not more than \$500. (Sec. 12, act of March 4, 1927; 43 U.S.C. 316k, and notice approved March 7, 1929.)



term. The renewal lease, if issued, will contain such terms and conditions as the manager may determine.

(e) *Rights reserved.* Grazing leases under this part shall be subordinated to and shall be subject to modification or reduction by the manager to the extent necessary to permit:

(1) The protection, development, and utilization, under applicable laws and regulations, of the mineral, timber, water, and other resources on or in the leased lands, including their use for agriculture.

(2) The allowance of applications for and the acquisition of homesites, easements, permits, leases, or other rights and uses, pursuant to applicable public land laws, where the same are in the public interest or will not unduly interfere with the use of the area for grazing purposes.

(3) The temporary closing of portions of the leased area to grazing whenever, because of improper handling of the stock, overgrazing, fire or other cause, such action is deemed necessary to restore the range to its normal condition.

(f) *Restrictions.* No lessee may so enclose roads, trails, or other highways as to disturb public travel thereon, nor interfere with existing communication lines or other improvements on the leased area; he shall not prevent legal hunting, fishing, or trapping on the land, or the ingress of miners, mineral prospectors, and other persons entitled to enter the area for lawful purposes.

(g) *Termination.* A lease may be surrendered by the lessee upon prior written notice filed with the manager, effective upon the date indicated in such notice but no less than 30 days from the date of filing, provided the lessee has complied with the terms and conditions of the lease and has paid all charges due thereunder.

(h) *Cancellation.* A lease may be canceled by the manager if the lease was issued improperly through error with respect to a material fact or facts, or if the lessee shall fail to comply with any of the provisions of the lease or of this part. No lease will be canceled for default in complying with the provisions of the lease or of this part until the lessee has been notified in writing of the nature of the default and has been afforded an opportunity to show why the lease should not be canceled.

#### § 4220.8 Stock driveways; crossing permits; quarantine regulations.

(a) *Stock driveways.* The manager may establish stock driveways for the regular crossing of livestock across public lands, in such form and manner as he may determine.

(b) *Crossing permits.* A permit for the crossing of livestock on a stock driveway or other public lands, includ-

ing lands under grazing lease, may be issued free of charge, upon the filing of an application on a form approved by the Director, in duplicate, with the authorized officer at least 30 days prior to the date the crossing is to begin.

(c) *Quarantine regulations.* Persons driving or transporting stock across any public lands must comply with the quarantine and other sanitary laws prescribed by the Territorial or other proper authorities.

#### § 4220.9 Range improvements.

(a) *Permits for construction and maintenance.* Application for a permit to construct and maintain range improvements should be filed with the authorized officer in duplicate on a form approved by the Director. The lessee, upon obtaining an executed permit from the authorized officer, may construct, maintain, and utilize authorized fences, buildings, corrals, reservoirs, wells, or other improvements needed for the exercise of the grazing privileges under the lease. The lessee will be required to comply with the laws of the State of Alaska with respect to the construction and maintenance of fences, but any such fence shall be constructed to permit the ingress and egress of minerals, prospectors for miners, and other persons entitled to enter such area for lawful purposes. The lessee, upon written approval by the authorized officer, may improve by seeding or reseeding within the lease area and may harvest hay or ensilage from such seeded or reseeded areas provided that the forage so produced is used primarily as feed for the lessee's livestock. The authorized officer may approve the assignment of range improvements upon receipt of an application for such assignment on a form approved by the Director.

(b) *Removal of improvements and personal property.* (1) Improvements, fixtures, or personal property (other than livestock) may not be removed from the lands unless all moneys due the United States under the lease have been paid.

(2) If all moneys due have been paid and the lessee, on or before the termination of his lease in whole or in part for any reason, notifies the manager of his determination to leave on the land involved in such termination improvements, the construction or maintenance of which has been authorized, no other person shall use or occupy, under any permit, lease, or entry under any public land law, the land on which such improvements are located, until there has been paid to the person entitled thereto the value of such improvements. If the interested parties are unable to reach an agreement as to such value, the amount may be fixed by the manager. All such

agreements, to be effective, must be approved by the manager. The failure of the subsequent permittee, lessee, or entryman to pay the former lessee in accordance with such agreement will be just cause for the cancellation of the permit, lease, or entry.

(3) In the absence of a notice by the lessee in accordance with subparagraph (2) of this paragraph the lessee shall, within 90 days from the date of expiration or termination of the lease, and if all charges due thereunder have been paid, remove all personal property belonging to him, together with any fence, building, corral, or other removable range improvements owned by him. All such property which is not removed within the time allowed shall thereupon become the property of the United States.

### Subpart 4230—Disposition of Leased Lands

#### § 4230.1 Settlement, location, and acquisition.

Lands leased under the act are not subject to settlement, location, and acquisition under the nonmineral public land laws applicable to Alaska unless and until the authorized officer of the Bureau of Land Management determines that the grazing lease should be canceled or reduced in order to permit, in the public interest and without undue interference with the grazing operations, the appropriate development and utilization of the lands (see § 4220.7(e)) and that the lands are suitable for and otherwise subject to the intended settlement, location, entry, or acquisition. An application on the appropriate form or a notice on a form approved by the Director if applicable to the class of entry contemplated, will be accepted and treated as a petition for determination. Upon such determination and after not less than 30 days' notice thereof to the lessee, the grazing lease may be canceled or reduced to permit the settlement, location, entry or other acquisition of the lands so eliminated from the lease, and the petitioner will be accorded a preference right to settle upon or enter the lands in accordance with the determination.

#### § 4230.2 Mineral prospecting, location, and purchase.

Unless otherwise withdrawn therefrom, lands leased under the act are subject to disposition under the mineral leasing laws and to mineral prospecting, location, and purchase under the mining laws, in accordance with the applicable regulations of group 3800 of this chapter.

### Subpart 4240—Protests, Hearings, and Appeals

#### § 4240.1 Protests.

Protests against an application for a lease should be filed in duplicate, with

the manager, contain a complete disclosure of all facts upon which the protest is based, and describe the lands involved in such protest; and should be accompanied by evidence of service of a copy of the protest upon the applicant. If the protestant desires to lease all or part of the land embraced in the application against which the protest is filed, the protest should be accompanied by an application for a grazing lease.

§ 4240.2 Hearings.

Any lessee of or applicant for grazing privileges may procure a review of any action or decision of the authorized officer by filing with such officer an application for a hearing, stating the nature of the action or decision complained of and the grounds of complaint. The filing of any such application and the conduct of the proceedings before an administrative law judge shall be governed by § 4.450 of this title.

**Group 4300—Grazing Administration; Alaska; Reindeer**

**PART 4300—GRAZING ADMINISTRATION; ALASKA; REINDEER**

**Subpart 4300—Grazing Administration; Alaska; Reindeer; General**

Sec.

4300.0-3 Authority.

4300.0-5 Definitions.

**Subpart 4310—Conditions**

4310.1 Lands subject to grazing permit.

4310.2 Qualifications of applicants.

4310.3 No right acquired by applicant prior to issuance of grazing permit.

4310.4 Rights reserved; public land laws applicable.

4310.5 Location, settlement, entry, and other disposition of lands included in grazing permit; notice to permittee of disposition and reduction of permitted area.

**Subpart 4320—Procedures**

4320.1 Application for grazing permit.

4320.2 Filing fee; grazing fee.

4320.3 Term of grazing permit; renewals.

4320.4 Area of use and maximum number of reindeer.

4320.5 Adjustment of grazing permit area.

4320.6 Report of grazing operations; assignments allowed.

4320.7 Termination of grazing permit; cancellation.

4320.8 Crossing permits.

4320.9 Permits for construction and maintenance of improvements; removal.

**Subpart 4330—Protests**

4330.1 Protests.

**Subpart 4340—Trespass**

4340.1 Trespass.

**AUTHORITY:** Taylor Grazing Act of 1934, as amended (43 U.S.C. 315, 315(a)-315(r)), section 4 of the act of August 28, 1937 (43 U.S.C. 1181(d)), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

**Subpart 4300—Grazing Administration; Alaska; Reindeer; General**

§ 4300.0-3 Authority.

Section 12 of the act of September 1, 1937 (50 Stat. 902), authorizes the Secretary of the Interior to promulgate such rules and regulations as, in his judgment, are necessary to carry into effect the provisions of this act.

§ 4300.0-5 Definitions.

(a) "Reindeer" includes reindeer and such caribou as have been introduced into animal husbandry or have actually joined reindeer herds and the increase thereof.

(b) "Natives" include the native Indians, Eskimos, and Aleuts of whole or part blood inhabiting Alaska at the time of the Treaty of Cession of Alaska to the United States and their descendants of whole or part blood, together with the Indians and Eskimos who, since the year 1867 and prior to September 1, 1937, have migrated into Alaska from the Dominion of Canada, and their descendants of whole or part blood.

(c) "Bureau" means Bureau of Land Management.

(d) "Director" means Director, Bureau of Land Management.

(e) "Authorized Officer" means the Bureau official who has been authorized to issue a reindeer grazing permit.

(f) "The act" means the act of September 1, 1937 (50 Stat. 902).

**Subpart 4310—Conditions**

§ 4310.1 Lands subject to grazing permit.

Vacant and unreserved and unappropriated public lands are subject to inclusion in a reindeer grazing permit. Where these lands are within the natural migration routes of caribou, or when they have other important wildlife values, the lands may be included in a permit, at the discretion of the authorized officer after consultation with the Alaska Department of Fish and Game, subject to such special terms and conditions as may be jointly agreed upon. Public lands which have been withdrawn for any purpose may also be included in a grazing permit with the prior consent of the Department or agency having administrative jurisdiction thereof, and subject to such additional terms and conditions as such Department or agency may impose.

§ 4310.2 Qualifications of applicants.

An applicant is qualified if he is a native or group, association or corporation of natives as defined by the act of September 1, 1937, organized under

the laws of the United States or the State of Alaska, or if the applicant is a native corporation under the provisions of the Alaska Native Claims Settlement Act.

§ 4310.3 No rights acquired by applicant prior to issuance of grazing permit.

The filing of an application will not segregate the land applied for from application by other persons for a grazing permit, or from other disposition under the public land laws. As the issuance of a grazing permit is discretionary, the filing of an application will not create a right for such a permit, or to the use of the lands applied for pending the issuance of a grazing permit.

§ 4310.4 Rights reserved; public land laws applicable.

(a) Grazing permits under this part shall be subordinated to higher uses and subject to modification or reduction by the authorized officer to the extent necessary to allow:

(1) The protection, development and utilization, under applicable laws and regulations, of the mineral, timber, water, and other resources on or in the lands included in the grazing permit, including their use for agriculture.

(2) The allowance of applications for and the acquisition of homesites, easements, permits, leases, or other rights and uses pursuant to applicable public land laws.

(3) The temporary closing of portions of the permitted area to grazing whenever, because of improper handling of the reindeer, overgrazing, fire, or other cause, such action is deemed necessary to restore the range to its normal condition.

(b) No permittee may so enclose roads, trails, or highways as to disturb public travel thereon, nor interfere with existing communication lines or other improvements on the permitted area; he shall not prevent legal hunting, fishing or trapping on the land, or ingress of miners, mineral prospectors, and other persons entitled to enter the area for lawful purposes.

(c) Persons using public lands for grazing of reindeer or for driving of reindeer across such lands must comply with applicable State and Federal laws relative to livestock quarantine and sanitation.

§ 4310.5 Location, settlement, entry, and other disposition of lands included in grazing permit; notice to permittee of disposition and reduction of permitted area.

(a) Lands included in grazing permits under the act are subject to settlement, location, and acquisition under the non-mineral public land laws applicable to the State of Alaska.

(b) Upon settlement location, or entry of any lands included within a

reindeer grazing permit, the permittee shall be notified of the settlement, location, or entry, and the permitted area shall be reduced by the area involved in the settlement, location, or entry.

(c) Unless otherwise withdrawn therefrom lands included in grazing permits under the act are subject to disposition under the mineral leasing laws and to mineral prospecting, location, and purchase under the mining laws, in accordance with the applicable regulations of Group 3800 of this chapter.

#### Subpart 4320—Procedures

##### § 4320.1 Application for grazing permit.

(a) *Form used.* An application for a grazing permit must be executed in duplicate on a form approved by the Director and filed in the Bureau office which has jurisdiction over lands applied for.

(b) *Bureau of Indian Affairs certification.* A certification of reindeer allotment to the applicant, signed by the authorized Bureau of Indian Affairs officer, must accompany the application if the applicant is to receive a herd from the Government.

(c) *Source of reindeer other than Government.* If reindeer are to be obtained from a source other than the Government, the applicant should state the source and show evidence of his purchase or option to purchase.

(d) *Listing of improvements.* With the initial application for any grazing permit issued under this part, the applicant must list by location and description the improvements found in the area under application which are owned by the applicant. Such statement of ownership will be verified by a Bureau of Indian Affairs official prior to submitting it to the Bureau of Land Management. Such existing improvements will be permitted by the terms of the initial grazing permit. Improvements to be constructed subsequent to the issuance of the initial grazing permit must be under permit in accordance with § 4320.9.

##### § 4320.2 Filing fee; grazing fee.

A filing fee of \$10 must accompany each application for a reindeer grazing permit or application for renewal thereof. No grazing fee will be charged.

##### § 4320.3 Term of grazing permit; renewals.

(a) Reindeer grazing permits shall be issued for a maximum term of 10 years, except where the applicant desires a shorter term, or where the authorized officer determines that a shorter period will be in the public interest.

(b) Application for renewal of a grazing permit shall be made not less than 4 months or more than 8 months

before the expiration date of the permit. The authorized officer may at his discretion offer the permittee a renewed grazing permit containing such terms, conditions, and of such duration as he determines to be in the public interest.

##### § 4320.4 Area of use and maximum number of reindeer.

(a) Permits will restrict grazing use to a definitely described area. Grazing permits will be granted only for such areas as may be deemed adequate and usable according to the needs of the permittee.

(b) The grazing permit will indicate the maximum number of reindeer which may be grazed on the permitted area, based on range conditions, and will be subject to adjustment as the condition of the range indicates.

##### § 4320.5 Adjustment of grazing permit area.

The permitted area may be reduced at any time, after not less than 30 days notice to the permittee, when in the opinion of the authorized officer the area is excessive for the number of reindeer grazed thereon. The permit may be increased by the authorized officer on his own motion or upon request of the permittee, when in the opinion of the authorized officer the area is insufficient for the number of reindeer grazed thereon. The permittee shall have opportunity within such notice period to show cause why the area included in the grazing permit should not be adjusted.

##### § 4320.6 Report of grazing operations; assignments allowed.

(a) Before April 1 of this second permit year and each year thereafter, the permittee shall file with the authorized officer a report in duplicate of his grazing operations during the preceding year on an approved form.

(b) No part of the land included in the permit may be subleased. Proposed assignments of a permit, in whole or in part, must be filed in duplicate with the authorized officer within 90 days from the date of its execution. Such assignments must contain all of the terms and conditions agreed upon by the parties thereto, accompanied by the same showing by the assignee as to qualifications and a reindeer allotment as is required of applicants for a permit, and by the assignee's statement agreeing to be bound by the provisions of the permit. No assignment shall be effective until approved by the authorized officer.

##### § 4320.7 Termination of grazing permit; cancellation.

(a) A grazing permit may be surrendered by the permittee upon prior written notice filed with the authorized officer, effective upon the date in-

dicated in such notice, but not less than 30 days from the date of filing.

(b) A grazing permit may be canceled by the authorized officer if the permit was issued improperly through error with respect to a material fact or facts, or if the permittee shall fail to comply with any of the provisions of the permit or of this part. No permit shall be canceled for default in complying with the provisions of the permit or of this part until the permittee has been notified in writing of the nature of the default and has been afforded an opportunity of not less than 30 days to show why the permit should not be canceled.

##### § 4320.8 Crossing permits.

A permit for the crossing of reindeer over public lands, including lands under grazing permit, may be issued free of charge, upon application filed with the authorized officer at least 30 days prior to the date the crossing is to begin. The application must show the number of reindeer to be driven, date of starting, approximate period of time required, and the land to be traversed.

##### § 4320.9 Permits for construction and maintenance of improvements; removal.

(a) Application for a permit to construct and maintain range improvements should be filed, in duplicate, with the authorized officer on an approved form. The grazing permittee, upon obtaining a permit from the authorized officer, may construct, maintain and utilize any fence, building, corral, reservoir, well, or other improvement needed for the exercise of the grazing privileges under the grazing permit. The permittee will be required to comply with the laws of the State of Alaska with respect to the construction and maintenance of fences, but any such fence shall be constructed to permit the ingress and egress of miners, prospectors for minerals, and other persons entitled to enter such area for lawful purposes.

(b) The permittee, within 90 days from the date of expiration or termination of the grazing permit, or within any extension of such period, shall be allowed to remove all personal property belonging to him, together with any fence, building, corral, or other removable range improvements owned by him. All such property which is not removed within the time allowed shall thereupon become the property of the United States.

#### Subpart 4330—Protests

##### § 4330.1 Protests.

Protests against an application for a grazing permit shall be filed in duplicate, with the authorized officer; contain a complete disclosure of all facts

upon which the protest is based; and describe the lands involved in such protests. It shall be accompanied by evidence of service of a copy of the protest upon the applicant. If the protestant desires to obtain a grazing permit for all or part of the land embraced in the application against which the protest is filed, the protest shall be accompanied by an application for a grazing permit.

#### Subpart 4340—Trespass

##### § 4340.1 Trespass.

(a) Any use of the Federal lands for reindeer grazing purposes, unless authorized by a valid permit issued in accordance with the regulations in this part is unlawful and is prohibited.

(b) Any person who willfully violates any of the rules and regulations in this part shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by imprisonment for not more than 1 year, or by a fine of not more than \$500.

3. Part 4100 is revised to read as follows:

### PART 4100—GRAZING ADMINISTRATION—EXCLUSIVE OF ALASKA

#### Subpart 4100—Grazing Administration— Exclusive of Alaska; General

Sec.

- 4100.0-1 Purpose.
- 4100.0-2 Objectives.
- 4100.0-3 Authority.
- 4100.0-5 Definitions.
- 4100.0-7 Cross-references.

#### Subpart 4110—Allocation of Grazing Use

- 4110.1 Mandatory qualifications.
- 4110.2 Grazing preference.
- 4110.2-1 Base property.
- 4110.2-2 Grazing preference allocation.
- 4110.2-3 Transfer of grazing preference.
- 4110.2-4 Relinquishment of grazing preference.
- 4110.3 Changes in available forage.
- 4110.3-1 Additional forage.
- 4110.3-2 Decrease in forage.
- 4110.4 Changes in public land acreage.
- 4110.4-1 Additional land acreage.
- 4110.4-2 Decrease in land acreage.
- 4110.5 Conflicting applications.
- 4110.6 Interest of Member of Congress.

#### Subpart 4120—Grazing Management

- 4120.1 Allotments.
- 4120.2 Terms and conditions.
- 4120.2-1 Mandatory terms and conditions.
- 4120.2-2 Other terms and conditions.
- 4120.2-3 Allotment management plans.
- 4120.3 Closure to livestock.
- 4120.4 Ownership and identification of livestock.
- 4120.5 State livestock requirements.
- 4120.6 Range improvements.
- 4120.6-1 Conditions for range improvements.
- 4120.6-2 Cooperative agreements.
- 4120.6-3 Range improvement permits.
- 4120.6-4 Standards, design, and stipulations.
- 4120.6-5 Assignment of range improvements.

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- 4120.6-6 Removal and compensation for loss of range improvements.
- 4120.6-7 Contributions.
- 4120.7 Cooperation in management.
- 4120.8 Special rules.

#### Subpart 4130—Authorizing Grazing Use

- 4130.1 Applications.
- 4130.2 Grazing permits or leases.
- 4130.3 Free-use grazing permits.
- 4130.4 Other grazing authorizations.
- 4130.4-1 Exchange-of-use grazing agreements.
- 4130.4-2 Nonrenewable grazing permits or leases.
- 4130.4-3 Crossing permits.
- 4130.4-4 Special grazing permits or leases.
- 4130.5 Fees.
- 4130.5-1 Payment of fees.
- 4130.5-2 Refunds.
- 4130.5-3 Service charges.
- 4130.6 Changes in grazing use.
- 4130.7 Pledge of permits or leases as security for loans.

#### Subpart 4140—Prohibited Acts

- 4140.1 Acts prohibited on public lands.

#### Subpart 4150—Unauthorized Grazing Use

- 4150.1 Violations.
- 4150.2 Notice and order to remove.
- 4150.3 Settlement.
- 4150.4 Demand for payment.
- 4150.5 Impoundment and disposal.
- 4150.5-1 Notice of intent to impound.
- 4150.5-2 Impoundment.
- 4150.5-3 Notice of public sale.
- 4150.5-4 Redemption.
- 4150.5-5 Sale.

#### Subpart 4160—Administrative Remedies

- 4160.1 Proposed decisions.
- 4160.1-1 Proposed decisions on permits or leases.
- 4160.1-2 Proposed decisions on alleged violations.
- 4160.2 Protests.
- 4160.3 Final decisions.
- 4160.4 Appeals.
- 4160.5 Show cause.

#### Subpart 4170—Penalties

- 4170.1 Penalty for violations.
- 4170.1-1 Failure to use.
- 4170.1-2 Federal or State laws or regulations.
- 4170.2 Penal provisions.
- 4170.2-1 Penal provisions under the Taylor Grazing Act.
- 4170.2-2 Penal provisions under the Federal Land Policy and Management Act.

AUTHORITY: 43 U.S.C. 315, 315a-315r, 1701 et seq., 1181d.

#### Subpart 4100—Grazing Administration—Exclusive of Alaska; General

##### § 4100.0-1 Purpose.

The purpose of these regulations is to provide for the uniform administration of livestock grazing on the public lands, exclusive of Alaska.

##### § 4100.0-2 Objectives.

The objectives of these regulations are to administer livestock grazing on the public lands in a manner that will

protect the land and its resources from destruction or unnecessary injury, stabilize the livestock industry dependent on the public lands, and provide for the orderly use, improvement, development, and rehabilitation of the public lands for livestock grazing consistent with multiple-use, sustained yield, environmental, economic, and other objectives as stated in subpart 1725 of this chapter and in section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

##### § 4100.0-3 Authority.

(a) The Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r), authorizes the Secretary of the Interior to establish grazing districts and to make provisions for the protection, administration, regulation, and improvement of the public lands. It also authorizes the Secretary to lease lands outside of such districts for grazing purposes upon such terms and conditions as he may prescribe.

(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) provides for the management, protection, development, and enhancement of the public lands and directs the Secretary to manage these lands under principles of multiple use and sustained yield in accordance with land use plans.

(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.

(d) Section 4 of the O&C Act of August 28, 1937 (43 U.S.C. 1181d), authorizes the Secretary, at his discretion, to lease for grazing purposes any revested Oregon and California railroad or reconveyed Coos Bay wagon road grant lands in the State of Oregon which may be so used without interfering with the production of timber or other purposes specified in the O&C Act.

(e) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

##### § 4100.0-5 Definitions.

Whenever used in this part, unless the context otherwise requires, the following definitions apply:

(a) The "act" means the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r).

(b) "Allotment" means an area of land designated and managed for grazing of livestock.

(c) "Allotment management plan (AMP)" means a documented program which applies to livestock operations on the public lands, which is prepared

in consultation with the permittee(s) or lessee(s) involved, and which: (1) Prescribes the manner in and extent to which livestock operations will be conducted in order to meet the multiple-use, sustained-yield, economic, and other needs and objectives as determined for the public lands through land use planning; and (2) describes the type, location, ownership, and general specifications for the range improvements to be installed and maintained on the public lands to meet the livestock grazing and other objectives of land management; and (3) contains such other provisions relating to livestock grazing and other objectives as may be prescribed by the authorized officer consistent with applicable law.

(d) "Animal unit month (AUM)" means the amount of forage necessary for the sustenance of one cow or its equivalent for a period of 1 month.

(e) "Authorized officer" means any person authorized by the Secretary to administer regulations in this part.

(f) "Base property" means: (1) Land that has the capability to produce crops or forage that can be used to support authorized livestock for a specified period of the year, or (2) water that is suitable for consumption by livestock and is available and accessible, to the authorized livestock when the public lands are used for livestock grazing.

(g) "Cancellation" means a permanent termination of a grazing permit or grazing lease and grazing preference, or free-use grazing permit or other grazing authorization, in whole or in part.

(h) "Class of livestock" means age and/or sex groups of a kind of livestock.

(i) "Contiguous land" means land that borders or touches upon public land.

(j) "District" means the specific area of public lands administered by a District Manager.

(k) "Grazing district" means the specific area within which the public lands are administered under section 3 of the act. Public lands outside grazing district boundaries are administered under section 15 of the act.

(l) "Grazing fee year" means the year March 1 to the last day of February which is used for billing purposes.

(m) "Grazing lease" means a document authorizing use of the public lands outside grazing districts under section 15 of the act for the purpose of grazing livestock.

(n) "Grazing permit" means a document authorizing use of the public lands within grazing districts under section 3 of the act for the purpose of grazing livestock.

(o) "Grazing preference" means the total number of animal unit months of livestock grazing on public lands apportioned and attached to base property owned or controlled by a permittee or lessee.

ty owned or controlled by a permittee or lessee.

(p) "Indigenous animal" means an animal which is or was part of the original fauna of the area in question.

(q) "Land use plan" means a planning decision document which establishes resource allocations and coordinated objectives and constraints for all forms of public land and resource use within the area covered by the plan.

(r) "Livestock" or "kind of livestock" means species of domestic livestock—cattle, sheep, horses, burros, and goats.

(s) "Livestock grazing capacity" means the number of animal unit months of forage available for livestock grazing on a sustained yield basis on the public lands as determined through land use planning.

(t) "Modification" means a change or revision of the terms and conditions of an unexpired grazing permit or lease including changes in kind or class and number of livestock, period(s) of use, and area(s) of use.

(u) "Other lands under Bureau of Land Management control" means those State or private lands controlled by the Bureau of Land Management through lease, agreement, or otherwise.

(v) "Public lands" means any land and interest in land outside of Alaska owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management, except lands located on the Outer Continental Shelf and lands held for the benefit of Indians.

(w) "Range betterment" means on-the-ground rehabilitation, protection, and improvement of the public lands to arrest range deterioration and to improve forage conditions, fish and wildlife, habitat, watershed protection, and livestock production consistent with land use plans.

(x) "Range betterment fund" means the separate account in the Treasury established by section 401(b)(1) of the Federal Land Policy and Management Act of 1976 consisting of 50 per centum of all moneys received by the United States as fees for grazing livestock on public lands.

(y) "Range improvement" means a structure, development, or treatment used to rehabilitate, protect, or improve the public lands to advance range betterment.

(z) "Secretary" means the Secretary of the Interior or his authorized officer.

(aa) "Service area" means the area that can be properly grazed by livestock watering at a certain water. In determining this area, natural and cultural barriers, recognized habits of livestock, proper livestock practices, and range management factors shall be considered.

(bb) "Supplemental feed" means concentrates or harvested feed sup-

plied to livestock to supplement the range forage.

(cc) "Suspension" means temporarily withholding a grazing permit or lease in whole or in part.

#### § 4100.0-7 Cross-references.

The regulations in subpart 1784 of this chapter govern advisory boards and the regulations in part 4 of this title govern appeals and hearings.

### Subpart 4110—Allocation of Grazing Use

#### § 4110.1 Mandatory qualifications.

Except as provided under §§ 4130.3 and 4130.4-3, to qualify for grazing use on the public lands an applicant must be engaged in the livestock business, must own or control land or water base property, and must be:

(a) A citizen of the United States or have properly filed a valid declaration of intention to become a citizen or a valid petition for naturalization; or

(b) A group or association authorized to conduct business in the State in which the grazing use is sought, all members of which are qualified under paragraph (a) of this section; or

(c) A corporation authorized to conduct business in the State in which the grazing use is sought.

#### § 4110.2 Grazing preference.

##### § 4110.2-1 Base property.

(a) The authorized officer shall find land or water owned or controlled by an applicant to be base property (see § 4100.0-5(f)) if:

(1) It serves as a base for a livestock operation which utilizes public lands within a grazing district; or

(2) It is contiguous land, or noncontiguous land when no applicant owns or controls contiguous land, used in conjunction with a livestock operation which utilizes public lands outside a grazing district.

(b) The authorized officer shall specify the length of time for which land base property shall be capable of supporting authorized livestock during the year, based on the management requirements for the public lands.

(c) An applicant shall provide a legal description, or plat, of his base property and shall certify to the authorized officer that this base property meets the requirements under paragraph (a) and (b) of this section and § 4100.0-5(f).

##### § 4110.2-2 Grazing preference allocation.

(a) Grazing preference shall be allocated to qualified applicants following the allocation of the vegetation resources among livestock grazing, wild-free-roaming horses and burros, wildlife, and other uses in the land use plans.

(b) Applicants who own or control base property contiguous to or corner-



ing upon public land outside of a grazing district where such public land consists of an isolated or disconnected tract embracing 760 acres or less shall have a preference right for 90 days after the tract has been offered for lease to lease the whole tract.

(c) The animal unit months of grazing preference are attached to: (1) the acres of land base property on a pro rata basis, or (2) water base property on the basis of the livestock grazing capacity within the service area of that water.

**§ 4110.2-3 Transfer of grazing preference.**

(a) Transfers of grazing preference in whole or in part are subject to the following requirements:

(1) The transferee shall meet all necessary qualifications for a grazing preference under the regulations of this part.

(2) Approval of the transfer shall not disrupt the stability of the livestock industry in the general area within which the public lands involved are located.

(3) The transfer applications under paragraphs (b) and (c) of this section, shall evidence assignment of interest and obligation in range improvements authorized on public lands under § 4120.6 and used and maintained in conjunction with the transferred preference (see § 4120.6-5). The transferee shall accept the terms and conditions of the cooperative agreements and range improvement permits with such modifications deemed necessary by the authorized officer.

(4) The transferee shall accept the terms and conditions of the terminating grazing permit or lease (see § 4130.2) with such modifications as he may request which are approved by the authorized officer or with such modifications as may be required by the authorized officer. Such modifications shall be consistent with the land use plans.

(5) The transferee shall file an application for a grazing permit or lease to the extent of the transferred preference simultaneously with filing a transfer application under paragraph (b) or (c) of this section.

(b) If base property is sold or leased, the transferee shall file with the authorized officer a properly executed transfer application showing the base property and the amount of grazing preference being transferred, in animal unit months, within 60 days of the date of sale or lease. If the transfer application has been timely filed and the requirements under paragraph (a) of this section have been met, the authorized officer may approve the transfer of the grazing preference attached to the affected base property, may approve the assignment of interest and obligation in range improvements on the public lands, and may issue a grazing permit or lease.

(c) If a grazing preference is being transferred from one base property to another base property, the transferee shall file with the authorized officer a properly completed transfer application in advance for approval. The transfer application shall: (1) State the amount of grazing preference being transferred, in animal unit months, (2) include a legal description of the old and new base property, (3) contain the concurrence of any lien holder, and (4) contain the consent of the owner(s) of the base property from which the transfer is to be made, unless the transferor is a lessee of the base property without whose livestock operation a grazing preference would not have been established, in which case the consent of the owner of the base property is not required. If the transfer application has been properly filed and the requirements under paragraph (a) of this section have been met, the authorized officer may approve the transfer of grazing preference between the base properties, may approve the assignment of interest and obligation in range improvements on the public lands, and may issue a grazing permit or lease.

(d) At the date of approval of a transfer, the existing grazing permit or lease shall terminate automatically and without notice to the extent of the transfer.

(e) If an unqualified transferee acquires rights in base property through operation of law or testamentary disposition, such transfer will not affect the grazing preference or any outstanding grazing permit or lease, or preclude the issuance or renewal of a grazing permit or lease based on such property for a period of 2 years after the transfer. However, such a transferee shall qualify under paragraph (a) of this section within the 2-year period or the grazing preference shall be subject to cancellation. The authorized officer may grant extensions of the 2-year period where there are delays solely attributable to probate proceedings.

(f) Failure of the transferee to comply with the regulations of this section shall result in the cancellation of the grazing preference.

**§ 4110.2-4 Relinquishment of grazing preference.**

Upon written request, the authorized officer shall accept the relinquishment of a grazing preference in whole or in part. No such relinquishment shall be accepted without the written concurrence of any lien holder and the written consent of the owner(s) of the base property to which the preference is attached, unless the applicant is a lessee of the base property without whose livestock operation a grazing preference would not have been established.

**§ 4110.3 Changes in available forage.**

**§ 4110.3-1 Additional forage.**

Additional forage may be allocated to qualified applicants for livestock grazing use at the discretion of the authorized officer if this use is consistent with the land use plans.

(a) Additional forage temporarily available for livestock grazing use, including forage which is temporarily available within an allotment because of a change in grazing use under § 4130.6, may be allocated on a non-renewable basis.

(b) Additional forage permanently available for livestock grazing use shall first be allocated in satisfaction of grazing preferences to the permittee(s) or lessee(s) authorized to graze in the allotment in which the forage is available.

(c) Additional forage permanently available for livestock grazing use over and above the preference(s) of the permittee(s) or lessee(s) in an allotment may be allocated in the following priority to:

(1) Permittee(s) or lessee(s) in proportion to their preferences or in proportion to the permittee's or lessee's contribution or efforts which resulted in increased forage production; or

(2) Other qualified applicants under § 4110.5.

**§ 4110.3-2 Decrease in forage.**

(a) When authorized grazing use exceeds the amount of forage available for livestock grazing within an allotment on a temporary basis: (1) due to drought, fire, or other natural causes, or (2) to facilitate installation, maintenance, or modification of range improvements, grazing permits or leases may be suspended in whole or in part.

(b) When authorized grazing use exceeds the amount of forage available and allocated for livestock grazing within an allotment or where reduced grazing use is necessary to facilitate achieving the objectives in the land use plans, grazing permits or grazing leases and grazing preferences shall be canceled in whole or in part.

(c) The suspension or cancellation under paragraphs (a) or (b) of this section will be equitably apportioned by the authorized officer or as agreed to among permittees or lessees and the authorized officer. If consistent with resource management needs, the authorized officer may provide the cancellations under paragraph (b) of this section be scheduled over a period not to exceed 3 years with the full cancellation coming in the last year.

**§ 4110.4 Changes in public land acreage.**

**§ 4110.4-1 Additional land acreage.**

When land outside designated allotments becomes available for grazing administration by the Bureau of Land

Management, the forage available for livestock grazing may be allocated to qualified applicants at the discretion of the authorized officer if this use is consistent with the land use plans. Grazing use will be allocated under § 4110.5.

#### § 4110.4-2 Decrease in land acreage.

(a) Where there is a decrease in public land acreage available for livestock grazing use within an allotment, grazing permits or grazing leases and grazing preferences shall be canceled in whole or in part. The cancellations will be equitably apportioned by the authorized officer or as agreed to among authorized users and the authorized officer.

(b) When public lands are disposed of or devoted to a public purpose which precludes livestock grazing, the permittees and lessees shall be given 2 years' prior notification except in cases of emergency (military defense requirements in time of war, natural disasters, national emergency needs, etc.), before their grazing permit or grazing lease and grazing preference may be canceled in whole. A permittee or lessee may unconditionally waive the 2-year prior notification. Such a waiver shall not prejudice the permittee's or lessee's right to reasonable compensation for the fair market value of his interest in authorized permanent range improvements located on these public lands (see § 4120.6-6).

#### 4110.5 Conflicting applications.

When more than one qualified applicant applies for livestock grazing use of the same public land and/or where additional forage or additional land acreage becomes available, the authorized officer may allocate grazing use of such land or forage consistent with the land use plans on the basis of any of the following factors:

- (a) Historical use of the public land (see § 4130.2(d));
- (b) Proper range management and use of water for livestock;
- (c) General needs of the applicants' livestock operations;
- (d) Public ingress and egress across privately owned or controlled land to public lands;
- (e) Topography;
- (f) Other land use requirements unique to the situation.

#### 4110.6 Interest of Member of Congress.

Title 18 U.S.C. 431-433 (1970) generally prohibits a Member of or Delegate to Congress from entering into any contract or agreement with the United States. Title 41 U.S.C. 22 (1970) generally provides that in every contract or agreement to be made or entered into, or accepted by or on behalf of the United States, there shall be inserted an express condition that no Member of or Delegate to Congress shall be ad-

mitted to any share or part of such contract or agreement, or to any benefit to arise thereupon. The provisions of these laws are incorporated herein by reference and apply to all permits, leases, and agreements issued under these regulations.

### Subpart 4120—Grazing Management

#### § 4120.1 Allotments.

As land use plans are prepared, the authorized officer shall designate allotments where the public lands and other lands under Bureau of Land Management control are suitable and available for livestock grazing.

#### § 4120.2 Terms and conditions.

Livestock grazing permits and leases shall contain terms and conditions necessary to achieve the management objectives for the public lands and other lands under Bureau of Land Management control identified in land use plans.

##### § 4120.2-1 Mandatory terms and conditions.

(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, that can be made in every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock grazing capacity and shall be limited or excluded to the extent necessary to achieve the objectives established for the allotment.

(b) If it has been determined that allotment management plans are not necessary, or if allotment management plans have not been implemented where they are needed, the authorized officer shall incorporate terms and conditions under this section in grazing permits or leases. The authorized officer shall modify these terms and conditions if the condition of the range requires modification of grazing use and may cancel grazing permits or grazing leases and grazing preferences as conditions warrant. These modifications and cancellations may be made at any time and shall be put into full force and effect on the date specified by the authorized officer. See § 4110.3-2.

(c) All permits and leases shall be made subject to cancellation, suspension or modification, as required by land use plans, and subject to applicable law.

(d) All permits and leases shall include the provisions that such permits and leases shall be subject to annual review, and to modification in accordance with applicable law.

##### § 4120.2-2 Other terms and conditions.

The authorized officer may:

- (a) Specify the class of livestock that will graze on an allotment.

(b) Specify breed or livestock in allotments within which two or more permittee(s) or lessee(s) are authorized to graze.

(c) Authorize the use and direct the placement of supplemental feed, including salt, for livestock on the public lands.

(d) Require permittees or lessees operating under a grazing permit or lease not incorporating an allotment management plan to submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, a report of the actual livestock grazing use made.

(e) Authorize grazing use by kinds of indigenous animals under specific terms and conditions.

#### § 4120.2-3 Allotment management plans.

Grazing management may be applied on allotments through the preparation and implementation of allotment management plans.

(a) An allotment management plan shall be prepared in consultation with the affected permittee(s) or lessee(s), approved by the authorized officer and implemented (see § 4100.0-5(c)). The allotment management plan shall include terms and conditions under § 4120.2-1, may include terms and conditions under § 4120.2-2, and shall prescribe a system of grazing designed to meet specific management objectives. The plan shall include the limits of flexibility within which the permittee of lessee may adjust his operation without prior approval of the authorized officer. The plan shall provide for the collection of data that shall be used to evaluate the effectiveness of the system of grazing in achieving the specific objectives.

(b) Private and State lands shall be included in the allotment management plan if these lands are unfenced and are intermingled with the public lands in the allotment or with the consent or at the request of the party who owns or controls these lands.

(c) Allotment management plans may be revised in consultation with the affected permittee(s) or lessee(s).

(d) If allotment management plans have been prepared, the authorized officer shall incorporate these plans in grazing permits or leases when they are issued. If grazing permits or leases have been issued prior to the preparation of allotment management plans, the authorized officer shall incorporate the allotment management plans in the grazing permits or leases when these plans are completed.

(e) Permittees or lessees operating under a grazing permit or lease incorporating an allotment management plan shall submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, a report of the actual grazing use made.



(f) Decisions which specify that allotment management plans are incorporated as terms and conditions of grazing permits or leases may be protested and appealed under subpart 4160.

**§ 4120.3 Closure to livestock.**

When the authorized officer determines that the soil, vegetation, or other resources on the public lands require protection because of drought, fire, or for other similar reasons, he shall temporarily close allotments, or portions of allotments, to grazing by any kind of livestock and for any period of time. The action to be taken by the authorized officer shall be specified in a notice of closure. The notice of closure shall state why the allotments, or portions of allotments, are being closed, shall specify the period of time for which these areas will be closed, and shall describe the resource conditions that must be present before these areas are reopened to grazing. The notice shall be published in a local newspaper and shall be posted at the county courthouse and at a post office near the public land area involved. Written notification shall be delivered personally or by certified mail to those who are authorized to graze livestock on the allotments affected. The notice of closure shall be issued as a final decision in full force and effect under § 4160.3(c) and shall require all owners of livestock affected thereby to remove such livestock in accordance with provisions of the notice. The authorized officer may proceed to impound, remove, and dispose of any livestock found in violation of the closing notice after the closure date specified in the notice in accordance with § 4150.5.

**§ 4120.4 Ownership and identification of livestock.**

(a) The permittee or lessee shall own or control and be responsible for the management of the livestock which graze the public lands under a grazing permit or lease. If the permittee or lessee does not own the livestock, he shall furnish the authorized officer a document specifying the kind and number of livestock, the brand or other marking the livestock are carrying, and the arrangements which in fact give him control of the livestock. This document shall be approved by the authorized officer prior to placing the livestock on the public lands.

(b) All cattle, horses, and burros over 6 months of age shall carry a brand which has been filed with the authorized officer. All sheep and goats over 6 months of age shall be identified with an earmark, paint brand, or other marking that has been filed with the authorized officer.

(c) The authorized officer may exempt certain livestock from the

minimum requirements under paragraph (b) of this section. An alternative method of identifying the livestock satisfactory to the authorized officer shall be used in such instances.

(d) The authorized officer may require counting and/or additional or special marking or tagging of the authorized livestock in order to control unauthorized grazing use or in order to otherwise promote the orderly administration of the public lands.

**§ 4120.5 State livestock requirements.**

Authorized users shall comply with the requirements of the State in which the public lands are located relating to: branding of livestock; breed, grade, and number of bulls; and health and sanitation requirements.

**§ 4120.6 Range improvements.**

**§ 4120.6-1 Conditions for range improvements.**

(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with the land use plans.

(b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative agreement with the Bureau of Land Management or must have an approved range improvement permit.

(c) The authorized officer may require a permittee or lessee to install, maintain, and/or modify range improvements on the public lands.

(d) When appropriated, one-half of the range betterment funds (see § 4130.5-1(f)) shall be available for use in the District from which the grazing fees were collected for the purpose of on-the-ground rehabilitation, protection, and improvement of public lands. The other one-half of the range betterment funds shall be used for on-the-ground range rehabilitation, protection, and improvement of public lands at the discretion of the Director. The range betterment funds shall be used as directed after consultations with user representatives. See § 4100.0-5 (w), (x), and (y). These funds shall be used for the installation, maintenance, modification, and removal of range improvements including such things as planning, environmental assessment, design, survey, materials, equipment, labor, and supervision related to these improvements.

**§ 4120.6-2 Cooperative agreements.**

Any permittee or lessee may enter into a cooperative agreement with the Bureau of Land Management for the installation, use, maintenance, and/or modification of range improvements needed to achieve management objectives within his designated allotment.

The cooperative agreement shall specify the division of cost or labor, or both, between the United States and permittees or lessees. The United States shall have title to range improvements authorized under cooperative agreements.

**§ 4120.6-3 Range improvement permits.**

Any permittee or lessee may apply for a range improvement permit to install, use maintain, and/or modify range improvements that are needed to achieve management objectives within his designated allotment. The permittee or lessee shall agree to provide total funding. The range improvement permits are issued at the discretion of the authorized officer. The permittee or lessee shall have title to range improvements authorized under range improvement permits.

**§ 4120.6-4 Standards, design, and stipulations.**

Range improvement cooperative agreements and permits shall specify the standards, design, and construction and maintenance criteria for the range improvements and shall include additional conditions and stipulations deemed necessary by the authorized officer to facilitate achieving the objectives in the land use plans. Where an existing range improvement is significantly inconsistent with these objectives, the authorization for the improvement may be modified by the authorized officer to reflect needed changes. Upon failure of the permittee or lessee to comply with the standards, design, construction, and maintenance criteria, and/or the conditions and stipulations specified by the authorized officer or failure to comply with the authorized officer's order to modify an existing range improvement, authorization for the improvement may be canceled.

**§ 4120.6-5 Assignment of range improvements.**

The authorized officer shall not approve the transfer of a grazing preference under § 4110.2-3 nor approve use by the transferee of existing range improvements, unless the transferee has agreed to compensate the transferor for fair market value of his interest in the authorized improvements within the allotment as of the date of transfer. If the parties are unable to agree as to the amount or manner of reasonable compensation, the matter shall be resolved by the authorized officer.

**§ 4120.6-6 Removal and compensation for loss of range improvements.**

(a) Range improvements shall not be removed from the public lands without authorization.

(b) The authorized officer may require permittees or lessees to remove range improvements which they own

on the public lands if these improvements are no longer serving the purpose for which they were installed or if they fail to meet the criteria under § 4120.6-4.

(c) If grazing permits or grazing leases and grazing preferences are canceled in whole or in part because the public lands are being disposed of or devoted to a public purpose which precludes livestock grazing, the permittees or lessees shall receive fair market value from the United States for their interest in the authorized permanent range improvements located on the public lands (less salvage value) which will no longer be available for livestock grazing.

(d) Permittees or lessees may be allowed a period of 180 days from the date of cancellation of a range improvement permit to salvage material owned by them and to perform such rehabilitation measures as are deemed necessary by the authorized officer.

#### § 4120.6-7 Contributions.

The authorized officer may accept contributions of labor, material, equipment, or money for administration, protection, and improvement of the public lands necessary to achieve the objectives of this part.

#### § 4120.7 Cooperation in management.

The Bureau of Land Management may cooperate with Federal, State, and/or local governmental entities, institutions, organizations, corporations, associations, and individuals to achieve the objectives of this part.

#### § 4120.8 Special rules.

Whenever it appears to a State Director that local conditions within his administrative jurisdiction require a special rule to achieve improved administration consistent with the objectives of this part, he may recommend such a rule for approval by the Director. These recommendations shall be subject to public review and comment, as appropriate, and upon approval shall become effective when published in the FEDERAL REGISTER as final rules. Special rules shall be published in a newspaper within the local area. Copies of the rule shall be sent to those who are authorized to graze livestock in the area where the special rule is applicable.

### Subpart 4130—Authorizing Grazing Use

#### § 4130.1 Applications.

Applications for grazing permits or leases (active use and nonuse), free-use grazing permits and other grazing authorizations shall be filed timely with the authorized officer at the local Bureau of Land Management office having jurisdiction over the public lands involved.

#### § 4130.2 Grazing permits or leases.

(a) The Bureau of Land Management shall offer grazing permits or leases for a term not to exceed 10 years to qualified applicants.

(b) Grazing permits or leases shall be issued to authorize livestock grazing on the public lands and other lands under Bureau of Land Management control. These grazing permits or leases shall include appropriate terms and conditions under § 4120.2. Grazing use under these permits or leases may include active grazing use, nonuse, or a combination of active use and nonuse.

(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.

(d) (1) Grazing permits or leases authorizing livestock grazing on the public lands and other lands under BLM control shall be issued for a term of 10 years, unless: (i) The land is pending disposal; (ii) the land will be devoted to a public purpose which precludes grazing prior to the end of 10 years; or (iii) it will be in the best interest of sound land management to specify a shorter term.

(2) Exceptions to the issuance of 10-year permits shall be made on a case-by-case basis. In determining whether the interest of sound land management warrants the issuance of a permit for less than 10 years, the following are elements that the authorized officer shall consider:

- (i) Resource conditions;
- (ii) Availability of resource and use data;
- (iii) Use conflicts;
- (iv) Availability of completed land use plans;
- (v) Whether significant adverse environmental impacts will result from issuance of a 10-year permit; and
- (vi) Expressed desire of applicant for a shorter term.

(3) Grazing permits or leases shall be modified or canceled in accordance with land use planning decisions.

(4) Grazing permits or leases shall be subject to annual review and modification of terms and conditions as appropriate.

(e) Permittees or lessees holding expiring grazing permits or leases shall be given first priority for receipt of new permits or leases if:

- (1) The lands remain available for livestock grazing in accordance with land use plans (see subpart 4120);
- (2) The permittee or lessee is in compliance with the regulations contained in this part and the terms and conditions of his grazing permit or lease; and
- (3) The permittee or lessee accepts the terms and conditions to be included in the new permit or lease by the authorized officer.

#### § 4130.3 Free-use grazing permits.

A free-use grazing permit shall be issued to any applicant whose residence is adjacent to public lands within grazing districts and who needs these public lands to support those domestic livestock owned by the applicant whose products or work are used directly and exclusively by the applicant and his family. The issuance of free-use grazing permits is subject to § 4110.5. These permits shall be issued on an annual basis. These permits cannot be transferred or assigned.

#### § 4130.4 Other grazing authorizations.

Exchange-of-use grazing agreements, nonrenewable grazing permits, or leases, crossing permits, and special grazing permits or leases have no priority for renewal and cannot be transferred or assigned.

#### § 4130.4-1 Exchange-of-use grazing agreements.

An exchange-of-use grazing agreement may be issued to any applicant who owns or controls lands within the exterior boundaries of the allotment in which the land offered in exchange-of-use is located. An exchange-of-use agreement may be issued to authorize use of public land within the allotment to the extent of the livestock grazing capacity of the land offered in exchange-of-use. No fee shall be charged for this grazing use. The exchange-of-use agreement may be issued for a term of not more than 10 years. The expiration date of the exchange-of-use agreement may coincide with the expiration date of any grazing permit or lease issued on the allotment in which the land offered in exchange is located. If the land offered in exchange of use is leased, the expiration date of the exchange-of-use agreement shall coincide with the expiration date of this lease not to exceed 10 years. During the term of the exchange-of-use agreement, the Bureau of Land Management shall have management control of such private land for grazing purposes under the provisions of this part and may authorize grazing use as deemed appropriate.

#### § 4130.4-2 Nonrenewable grazing permits or leases.

Nonrenewable grazing permits of leases may be issued to qualified applicants when forage is temporarily available, provided this use does not interfere with existing livestock operations on the public lands and it is consistent with land use plans. This use shall be authorized on an annual basis only.

#### § 4130.4-3 Crossing permits.

Any applicant showing the necessity for crossing the public land or other land under Bureau of Land Management control, or both, with livestock

for proper and lawful purposes may be issued a crossing permit upon such terms and conditions deemed necessary by the authorized officer to achieve the objectives of this part.

**§ 4130.4-4 Special grazing permits or leases.**

Special grazing permits or leases authorizing grazing use by privately owned or controlled indigenous animals may be issued at the discretion of the authorized officer. This use shall be consistent with land use plans. These permits or leases shall be issued for a term deemed appropriate by the authorized officer not to exceed 10 years.

**§ 4130.5 Fees.**

**§ 4130.5-1 Payment of fees.**

**(a) [Reserved]**

(b) The fees for each grazing fee year shall be published annually in the FEDERAL REGISTER.

(c) Fees shall be charged for livestock grazing upon or crossing the public lands and other lands under Bureau of Land Management control at a specified rate per animal unit month. For billing purposes, one cow, one horse, one burro, five sheep, or five goats shall be considered as one animal unit. A minimum annual fee of \$10 shall be charged for livestock grazing upon these lands. A minimum fee of \$10 shall be charged for each crossing permit issued on these lands. No fee shall be charged for livestock grazing authorized under free-use grazing permits or exchange-of-use grazing agreements. No fee shall be charged when authorizing total nonuse.

(d) The full fee shall be charged for each paying animal unit, which is defined as each animal six (6) months of age or over at the time of entering public lands, for all weaned animals regardless of age, and for such animals as will become twelve (12) months of age during the authorized period of use. No charge will be made for animals under six (6) months of age at the time of entering public lands, that are the natural progeny of animals upon which fees are paid, provided they will not become twelve (12) months of age during the authorized period of use, or for progeny born during that period.

(e) Fees are due upon issuance of the billing notice and must be paid in full prior to grazing use except where an allotment management plan has been incorporated in a grazing permit or lease, in which case a billing notice based on actual use may be issued at the end of the grazing period or year or a billing notice based on the normal operation may be issued prior to the grazing period or year followed by an adjusted billing notice based on actual use after grazing use has been com-

pleted. If an actual use report is not submitted, the amount due will be based on grazing use at the upper limit of flexibility specified in the allotment management plan. The authorized officer shall cancel this actual use billing privilege for failure, or refusal, to submit a timely actual use report, however, this does not relieve the permittee or lessee of his responsibility for submitting an actual use report under § 4120.2-3(e).

(f) Fifty percent of the grazing fees collected for grazing livestock on public lands (other than ceded Indian lands) under the act shall be deposited in a separate account in the U.S. Treasury for the range improvement program (see § 4120.6).

**§ 4130.5-2 Refunds.**

(a) Grazing fees may be refunded at the discretion of the authorized officer where applications for change in grazing use and related refund are filed prior to the period of use for which the refund is requested.

(b) No refunds shall be made for failure to make grazing use, except during periods of range depletion due to drought, fire, or other natural causes, or in case of a general spread of disease among the livestock, that occurs during the term of a permit or lease. During these periods of range depletion the authorized officer may credit or refund fees in whole or in part, or fee payment may be postponed for as long as the emergency exists.

**§ 4130.5-3 Service charge.**

Except for actions initiated by the authorized officer, a service charge of \$10 shall be made for each transfer of a grazing preference and for each replacement or supplemental billing notice issued under § 4130.6

**§ 4130.6 Changes in grazing use.**

(a) Applications for changes in grazing use should be filed with the authorized officer before the billing notices for the affected grazing use have been issued. Applications for changes in grazing use filed after the billing notices for the affected grazing use have been issued and which require the issuance of replacement or supplemental billing notices shall be subject to a service charge under § 4130.5-3.

(b) Changes in grazing use may be granted at the discretion of the authorized officer if the changes applied for are compatible with existing operations and are consistent with the objectives for the affected allotments.

**4130.7 Pledge of permits or leases as security for loans.**

Grazing permits or leases that have been pledged as security for loans from lending agencies shall be renewed by the authorized officer under

the provisions of these regulations for a period of not to exceed 10 years if the loan is for the purpose of furthering the permittee's or lessee's livestock operation, *Provided*, That the permittee or lessee has complied with the rules and regulations of this part and that such renewal will be in accordance with other applicable laws and regulations. While grazing permits or leases may be pledged as security for loans from lending agencies, this does not exempt these permits or leases from the provisions of these regulations.

**Subpart 4140—Prohibited Acts**

**§ 4140.1 Acts prohibited on public lands.**

The following acts are prohibited on public lands and other lands under Bureau of Land Management control:

(a) Persons performing the following prohibited acts may be subject to civil penalties under § 4170.1:

(1) Violating special terms and conditions incorporated in permits or leases;

(2) Failing to make substantial grazing use as authorized for 2 consecutive fee years;

(3) Placing supplemental feed on these lands without authorization;

(4) Failing to comply with the terms, conditions, and stipulations of range improvement cooperative agreements or range improvement permits;

(5) Refusing to install, maintain, modify, or remove range improvements when so directed by the authorized officer.

(b) Persons performing the following prohibited acts may be subject to civil and criminal penalties under §§ 4170.1 and 4170.2:

(1) Allowing livestock on or driving livestock across these lands without a permit or lease or in violation of the terms and conditions of a permit or lease, either by exceeding the number of livestock authorized, or by allowing livestock to be on these lands in an area or at a time different from that designated;

(2) Installing, using, maintaining, modifying, and/or removing range improvements without authorization;

(3) Cutting, burning, spraying, destroying, or removing vegetation without authorization;

(4) Damaging or removing U.S. property without authorization;

(5) Molesting livestock authorized to graze on these lands;

(6) Littering;

(7) Violating any provision of part 4700 of subchapter concerning the protection and management of wild free-roaming horses and burros;

(8) Violating any Federal or State laws or regulations concerning conservation or protection of natural and cultural resources or the environment including, but not limited to, those re-

lating to air and water quality, protection of fish and wildlife, plants, and the use of chemical toxicants;

(9) Interfering with lawful uses or users;

(10) Knowingly or willfully making a false statement or representation in base property certifications, grazing applications, range improvement permit applications, cooperative agreements, and/or amendments thereto;

(11) Violating State livestock requirements relating to branding of livestock; breed, grade, and number of bulls; and health and sanitation requirements;

(12) Allowing privately owned or controlled indigenous animals on or driving them across these lands without a permit or lease or in violation of the terms and conditions of a permit or lease, either by exceeding the number of animals authorized, or by allowing indigenous animals to be on these lands in an area or at a time different from that designated.

#### **Subpart 4150—Unauthorized Grazing Use**

##### **§ 4150.1 Violations.**

Violation of § 4140.1(b)(1) constitutes unauthorized grazing use. Violators shall be liable in damages to the United States for the forage consumed by their livestock, for injury to Federal property caused by their unauthorized grazing use, and for expenses incurred in impoundment and disposal, and may be subject to civil penalties or criminal sanction for such unlawful acts. Violation of § 4140.1(b)(12) also constitutes unauthorized grazing use and violators are subject to the provisions of this subpart as deemed appropriate.

##### **§ 4150.2 Notice and order to remove.**

(a) Whenever it appears that a violation exists and the owner of the unauthorized livestock is known, written notice shall be served upon the alleged violator or his agent, or both, by certified mail or personal delivery and a copy of the notice shall be sent to any lien holder of record. The notice shall set forth the act or omission constituting the violation and refer to the specific terms, conditions, and provisions of these regulations alleged to have been violated. It shall also order the alleged violator to remove the livestock within a specified time. The notice shall allow a specified time from receipt of notice for the alleged violator to show that there has been no violation or to make settlement under § 4150.3. If the alleged violator fails to comply with the notice, the authorized officer may proceed to impound the livestock under § 4150.5.

(b) When neither the owner of the unauthorized livestock nor his agent is known, the authorized officer may

proceed to impound the livestock under § 4150.5.

(c) A notice alleging unauthorized horse or burro use in areas with wild free-roaming horses and burros shall specify that the unauthorized horses or burros can be claimed and gathered only in accordance with the procedures of part 4700 of this subchapter.

##### **§ 4150.3 Settlement.**

The authorized officer shall analyze the facts and circumstances of the case and shall determine if the violation is nonwillful or willful and, if it is willful, whether it is a repeated violation. When violations are determined to be nonwillful, settlement shall be made under paragraphs (a)(1) and (a)(3) of this section. When violations are determined to be willful, or willfully repeated, settlement shall be made under paragraphs (a)(2), (3), and (4) of this section and the authorized officer shall take action under § 4170.1-1.

(a) The amount due the United States in settlement for unauthorized grazing use shall be determined by the authorized officer as follows:

(1) "Nonwillful violations." The value of forage consumed as determined by the average monthly rate for pasturing livestock on privately owned land (excluding irrigated land) for the 11 Western States as published annually by the Department of Agriculture.

(2) "Willful and repeated willful violations." Twice the value of the forage consumed as determined in paragraph (a)(1) of this section.

(3) The full value for all damages to the public lands and other property of the United States.

(4) All expenses incurred by the United States including those incurred in gathering, impounding, caring for, and disposing of livestock in cases which necessitate impoundment under § 4150.5.

(b) Payment made under this section does not relieve the alleged violator of any criminal liability under Federal or State law.

(c) No permit or lease shall be issued or renewed until any amount found to be due in the United States under this section has been paid.

##### **§ 4150.4 Demand for payment.**

Where the livestock have been removed, but satisfactory settlement has not been made within the time allowed under § 4150.2, a certified letter demanding payment will be sent or personally delivered to the owner or his agent, or both, and a copy of the letter shall be sent to any lienholder of record. This letter shall allow not more than 15 days from date of receipt to settle the obligation.

##### **§ 4150.5 Impoundment and disposal.**

Unauthorized livestock remaining on the public lands or other lands under

Bureau of Land Management control, or both, after the date set forth in the notice and order to remove sent under § 4150.2 may be impounded and disposed of by the authorized officer as provided herein.

##### **§ 4150.5-1 Notice of intent to impound.**

(a) A written notice of intent to impound shall be sent by certified mail or personally delivered to the owner or his agent, or both, and a copy of the notice shall be sent to any lienholder of record. The written notice shall indicate that unauthorized livestock on the specified public lands or other lands under Bureau of Land Management control, or both, may be impounded any time after 5 days from delivery of the notice.

(b) Where the owner and his agent are unknown, or where both a known owner and his agent refuses to accept delivery, a notice of intent to impound shall be published in a local newspaper and posted at the county courthouse and a post office near the public land involved. The notice shall indicate that unauthorized livestock on the specified public lands or other lands under Bureau of Land Management control, or both, may be impounded any time after 5 days from publishing and posting the notice.

##### **§ 4150.5-2 Impoundment.**

(a) Any time after 5 days from delivery of the notice under § 4150.5-1(a) or any time after 5 days from publishing and posting the notice under § 4150.5-1(b), the unauthorized livestock may be impounded.

(b) Unauthorized livestock may be impounded without further notice any time within the 12-month period following the effective date of a notice given under § 4150.5-1 (a) or (b).

##### **§ 4150.5-3 Notice of public sale.**

Following the impoundment of livestock under this subpart the livestock may be disposed of by the authorized officer under these regulations or, if a suitable agreement is in effect, they may be turned over to the State for disposal. If the authorized officer disposes of the livestock, he shall publish a notice of sale in a local newspaper and post this notice at the county courthouse and at a post office near the land involved. The notice shall describe the livestock and specify the date, time, and place of sale. The sale date shall be at least 5 days after the publication and posting of the notice. Any known owners or agents, or both, and lienholders of record shall be notified in writing by certified mail or by personal delivery of the sale and the procedure by which the impounded livestock may be redeemed prior to the sale.

##### **§ 4150.5-4 Redemption.**

Any owner or his agent, or both, or lienholder of record of the impounded

livestock may redeem them under these regulations or, if a suitable agreement is in effect, in accordance with State law, prior to the time of sale upon settlement with the United States under §4150.3 or adequate showing that there has been no violation.

**§4150.5-5 Sale.**

If the livestock are not redeemed on or before the date and time fixed for their sale, they shall be offered at public sale to the highest bidder by the authorized officer under these regulations or, if a suitable agreement is in effect, by the State. If a satisfactory bid is not received, the livestock may be reoffered for sale, condemned and destroyed, or otherwise disposed of under these regulations or, if a suitable agreement is in effect, in accordance with State law. When livestock are sold by the authorized officer under these regulations, he shall furnish the purchaser a bill of sale. If sold by the State, the Bureau of Land Management shall be reimbursed for the amount due under §4150.3 up to the amount received for sale of the livestock.

**Subpart 4160—Administrative Remedies**

**§4160.1 Proposed decisions.**

**§4160.1-1 Proposed decisions on permits or leases.**

The authorized officer shall serve a proposed decision on any applicant, permittee, or lessee, or his agent, or both, who is adversely affected by his proposed action on applications for permits (including range improvement permits) or leases or by his proposed action related to terms and conditions of permits (including range improvement permits) or leases, by certified mail or personal delivery, and shall notify any lienholder of record of the proposed decision. The proposed decision shall state the reasons for the action, including reference to the pertinent terms, conditions, and/or provisions of these regulations, and shall provide for a period of 15 days after receipt for the filing of a protest.

**§4160.1-2 Proposed decisions on alleged violations.**

If the authorized officer determines that a permittee or lessee appears to have violated any provision of this part he shall serve a proposed decision on the permittee or lessee, or his agent, or both, by certified mail or personal delivery, and shall notify any lienholder of record of the proposed decision. The proposed decision shall state the alleged violation and refer to the specific terms, conditions, and/or provisions of these regulations alleged to have been violated and the reasons

for the proposed decision. As applicable, the proposed decision shall state the amount due under §§4130.5-1 or 4150.3 and the action to be taken under §4170.1. The proposed decision shall provide for a period of 15 days after receipt for the filing of a protest.

**§4160.2 Protests.**

Any applicant, permittee, lessee, or any other person adversely affected by a proposed decision of the authorized officer may protest the proposed decision in person or in writing to the authorized officer within 15 days after receipt of the proposed decision.

**§4160.3 Final decisions.**

(a) In the absence of a protest, the proposed decision shall become the final decision of the authorized officer without further notice.

(b) Upon the timely filing of a protest, the authorized officer shall reconsider his proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion of his review of the protest, the authorized officer shall serve his final decision on the protestant or his agent, or both, and on any other known interested individual, and shall notify any lienholder of record of the final decision.

(c) The final decision shall provide for a period of 30 days after receipt for filing of an appeal. An appeal shall suspend the effects of the final decision from which it is taken pending final action on the appeal. Where the appeal is concerned with the grazing use to be granted under the current application, an applicant who was granted grazing use in the preceding year may continue to make that use pending final action on the appeal. However, the authorized officer may provide in the final decision that it shall be in full force and effect pending decision on appeal therefrom. Final decisions shall be in full force and effect only if required for the orderly administration of the range or for the protection of other resource values. See §4.477 of this title.

**§4160.4 Appeals.**

Any applicant, permittee, lessee, or any other person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge under §4.470 of this title by filing his notice of appeal in the office of the authorized officer within 30 days after the receipt of the decision.

**§4160.5 Show cause.**

Whenever it appears to the authorized officer that disciplinary action is advisable because a permittee or lessee has willfully or repeatedly violated

provisions of this part, the authorized officer shall serve a show cause notice on the permittee or lessee, or his agent, or both, by certified mail or personal delivery and shall notify any lienholder of record. The show cause notice shall state the alleged violation and refer to the specific terms, conditions, and/or provisions of these regulations alleged to have been violated. As applicable, the notice shall state the amount due under §§4130.5-1 or 4150.3. The show cause notice shall cite the permittee or lessee to appear before an administrative law judge at a designated time and place, in accordance with §4.470 of this title, to show cause why his grazing permit or grazing lease should not be suspended in whole or in part or why his grazing permit or grazing lease and grazing preference should not be canceled in whole or in part under §4170.11.

**Subpart 4170—Penalties**

**§4170.1 Civil penalties.**

**§4170.1-1 Penalty for violations.**

The authorized officer may suspend the grazing use authorized under a grazing permit or grazing lease, in whole or in part, or may cancel a grazing permit, or grazing lease and grazing preference, or a free use grazing permit or other grazing authorization, in whole or in part, under subpart 4160 for violation by a permittee or lessee of any of the provisions of this part. However, the authorized officer shall suspend the grazing use authorized under a grazing permit or grazing lease, in whole or in part, or shall cancel a grazing permit or grazing lease and grazing preference, in whole or in part, under subpart 4160 for repeated willful violation by a permittee or lessee of §4140.1(b)(1). Whenever a nonpermittee or nonlessee violates §4140.1(b)(1) and has not made satisfactory settlement under §4150.3, the authorized officer shall refer the matter to proper authorities for appropriate legal action by the United States against the violator.

**§4170.1-2 Failure to use.**

Failing to make substantial grazing use as authorized for 2 consecutive fee years may result in the cancellation of the grazing preference only to the extent of failure to use (see §4140.1(a)(2)).

**§4170.1-3 Federal or State laws or regulations.**

Violation of §4140.1(b)(8) may result in a penalty under §4170.1-1 where:

(a) Public land administered by the Bureau of Land Management is involved or affected;

(b) Such violation is related to grazing use authorized by permit or lease; and

(c) The permittee or lessee has been convicted of or otherwise found to be in violation of any of these laws or regulations by a court.

**§ 4170.2 Penal provisions.**

**§ 4170.2-1 Penal provisions under the Taylor Grazing Act.**

Under section 2 of the act any person who willfully violates the provisions of § 4140.1(b) or of approved special rules and regulations is punishable by a fine of not more than \$500.

**§ 4170.2-2 Penal provisions under the Federal Land Policy and Management Act.**

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), any person who knowingly and willfully violates the provisions of § 4140.1(b) or of approved special rules and regulations may be brought before a designated U.S. magistrate and is punishable by a fine of not more than \$1,000 or imprisonment for no more than 12 months, or both.

4. Part 4700 is amended by changing references in §§ 4720.3, 4730.3, and

4730.4. These sections are revised to read as follows:

**§ 4720.3 Trespass animals.**

Unauthorized horses or burros which have been claimed and have been determined to be privately owned in accordance with the provisions of this section will be considered to have been in trespass and may not be released until a proper trespass charge has been determined by the authorized officer in accordance with the provisions of subpart 4150 of this subchapter.

**§ 4730.3 Habitat reservation and allocation.**

The biological requirements of wild free-roaming horses and burros will be determined based upon appropriate studies or other available information. The needs for soil and watershed protection, domestic livestock, maintenance of environment quality, wildlife, and other factors will be considered along with wild free-roaming horse and burro requirements. After determining the optimum number of such horses and burros to be maintained on an area, the authorized officer shall reserve adequate forage and safety other biological requirements of such

horses and burros and, when necessary, adjust or exclude domestic livestock use accordingly. See §§ 4110.2-2 and 4110.3-2 of this subchapter.

**§ 4730.4 Closure to livestock grazing.**

The authorized officer may close public lands to use by all or a particular kind of domestic livestock where it is necessary to allocate all available forage to, or to satisfy other biological requirements of wild free-roaming horses or burros. Such closures may be made only after appropriate public notice and in accordance with the procedures for reduction or cancellation of grazing privileges provided for under provisions in this subchapter. See §§ 4110.2-2 and 4110.3-2 of this subchapter.

5. Part 9230 is amended by deleting §§ 9239.3, 9239.3-1, and 9239.3-2 and redesignating "§ 9239.3-3 Alaska." as "§ 9239.3 Grazing, Alaska." as follows:

**§§ 9239.3—9239.3-2 [Deleted]**

**§ 9239.3 Grazing, Alaska. [Redesignated from § 9239.3-3]**

[FR Doc. 78-18421 Filed 7-3-78; 8:45 am]

**WEDNESDAY, JULY 5, 1978  
PART III**



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**DEPARTMENT OF  
COMMERCE**

**Industry and Trade  
Administration**



**RESTRICTIVE TRADE  
PRACTICES OR  
BOYCOTTS**

**Reporting Requirements**



[3510-25]

**Title 15—Commerce and Foreign Trade**

**CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE**

**PART 369—RESTRICTIVE TRADE PRACTICES OR BOYCOTTS**

**Reporting Requirements**

**AGENCY:** Industry and Trade Administration, Department of Commerce.

**ACTION:** Final regulations.

**SUMMARY:** The agency is amending the Restrictive Trade Practices or Boycotts part of the Export Administration regulations (Part 369, Title 15, Code of Federal Regulations). The changes are being made to implement the reporting requirements of title II of the Export Administration Amendments of 1977 (Pub. L. 95-52), signed into law on June 22, 1977.

**DATE:** These regulations are effective August 1, 1978 with respect to requests received on or after that date.

**FOR ADDITIONAL INFORMATION CONTACT:** Lorna Ramsay, Barry Shanks, or William Schneider, telephone 202-377-2448.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 4(A)(b)(2) of the Export Administration Act of 1969, as amended (the Act) (50 U.S.C. App. 2403-1a(b)(2)), the Department of Commerce published proposed regulations concerning the reporting of restrictive trade practice or boycott requests in the FEDERAL REGISTER dated December 30, 1977 (42 FR 65592).

As an interim measure, the Department issued reporting guidelines, which appeared in the FEDERAL REGISTER dated February 9, 1978 (43 FR 5512), providing that until these final reporting regulations became effective, reporting requirements in § 369.6 (formerly § 369.4) would remain in effect (with all references therein to §§ 369.2 and 369.3 being treated as references to those sections as they appear in Export Administration Bulletin No. 164 (15 CFR 369.2 and 369.3 (1977)). However, the interim guidelines also provided that reporting entities should delay filing reports of requests received or actions taken on or after February 6, 1978, until the final reporting regulations became effective.

U.S. exporters and related service organizations who, in accordance with the interim guidelines, have not filed reports of requests received or actions taken between February 6, 1978 and July 31, 1978, must now submit such reports to the Department of Commerce. The new reporting require-

ments contained in the final regulations do not apply to these reports. All reports of requests received or actions taken during this interim period, whether they involved requests or actions coming within §§ 369.2 or 369.3 (15 CFR 369.2 and 369.3 (1977)), should be submitted on Form DIB-621P (10-76). The reports should be sent to the Bureau of Trade Regulation, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230 and must be postmarked by August 15, 1978.

The proposed reporting regulations were accompanied by proposed regulations concerning the issuance of "interpretive letters" regarding Part 369. Upon further consideration of the proposed interpretive letter regulations, the Department has decided not to issue final regulations on that subject. Rather, from time to time as necessary and appropriate, the Department will issue interpretations when an important issue of general interest is raised concerning the Act or its implementing regulations. Those interpretations will be published in the FEDERAL REGISTER and will be added to Part 369, Title 15, Code of Federal Regulations, as an appendix. The first such interpretation, regarding the application of Part 369 to certain certifications and contractual clauses, was published in the FEDERAL REGISTER dated April 21, 1978 (43 FR 16969).

Copies of the proposed reporting and interpretive letter regulations were mailed to Members of Congress, State government officials, exporters, business and trade associations, special interest groups, law firms, and all persons requesting a copy. Interested parties were invited to provide comments on or before noon, January 30, 1978. In response, 60 separate submissions were received from members of the public containing numerous different comments. All are a matter of public record. In issuing the final regulations, all public comments on the proposed regulations received before the close of the comment period were carefully considered.

The principal issues raised by the comments and the Department's response to them are described below.

**SCOPE OF REPORTING REQUIREMENTS**

The proposed regulations provided that a request to take any action which has the effect of furthering or supporting a restrictive trade practice or boycott fostered or imposed by a foreign country against a country friendly to the United States or against any U.S. person would be reportable. They further provided that a boycott request would be reportable regardless of whether the action requested were prohibited or permissible under this part. For example, an exporter would be required to report re-

ceipt of a request to comply with a unilateral selection which he knew or had reason to know was boycott-based even when his compliance with such a selection was permitted under the unilateral selection exception contained in § 369.3(c).

Some persons commented that a request should be reportable only if the requested action is prohibited by this part. Others agreed with the proposed regulations.

The proposed regulations remain unchanged. The statute contains no exception from the reporting requirements based on the prohibited or permissible character of the action requested. Indeed the legislative history of the Act clearly demonstrates congressional intent that boycott requests must be reported whether or not the action requested is covered by an exception.

These reporting requirements are an integral part of the statutory scheme enacted by the Congress and are in part intended to permit careful monitoring of boycott requests. They are also intended to provide an incentive for refusing to comply with boycott requests even where the action requested is permissible under the statute. Exclusion of requests for boycott actions coming within the exceptions would seriously impair the attainment of those objectives.

**CONTROLLED FOREIGN SUBSIDIARIES AND AFFILIATES**

The proposed regulations provided that the reporting requirements would apply to a controlled-in-fact foreign subsidiary, affiliate or branch office when such entity received a request in connection with an activity in the interstate or foreign commerce of the United States.

Some persons who commented took the position that boycott requests received by controlled foreign subsidiaries and affiliates should be reportable even if they are not in connection with an activity in U.S. commerce. A number of others agreed with the proposed regulations.

The proposed regulations remain unchanged. The substantive prohibitions of this part apply only with respect to a U.S. person's activities in U.S. commerce. Section 369.1(d) of the substantive regulations establishes a test for U.S. commerce with respect to foreign subsidiaries and affiliates that is sufficiently broad to accomplish the congressional purpose without unduly interfering with the interest of foreign countries in regulating the conduct of persons subject to their jurisdiction. To require foreign subsidiaries and affiliates to report all requests received in connection with activities totally outside U.S. commerce would unnecessarily impose two different jurisdictional tests and undo the substantive

regulations' carefully drawn line for avoiding a major conflict of jurisdiction between the United States and the other nations of the world. The antiboycott law is premised on U.S. opposition to foreign interference with U.S. commerce. It would be contrary to the spirit of the statute for its reporting requirements to impose burdens on activities wholly within the commerce of another nation and not otherwise subject to U.S. law.

The Department notes that the reporting requirements apply to a controlled foreign subsidiary's or affiliate's receipt of a request such as a boycott questionnaire, unrelated to a particular transaction or activity, when the entity has or anticipates a business relationship with or in a boycotting country involving U.S. commerce.

U.S. persons are reminded that actions taken either independently or through any other person with intent to evade the provisions of the substantive regulations, including those governing U.S. commerce, constitute intent to evade the statute and are subject to severe penalties.

From time to time the Department will survey domestic concerns for purposes of determining the worldwide scope of boycott requests received by their controlled foreign subsidiaries and affiliates with respect to their activities outside U.S. commerce. This pertains to requests which would be reportable under these regulations but for the fact that the request is outside U.S. commerce. The information requested will include the number and nature of nonreportable boycott requests received, the action(s) requested, the action(s) taken in response and the countries in which the requests originate. The results of such surveys, including the names of those surveyed, will be made public.

#### RECEIVING A REQUEST

The reporting provisions of the statute provide for the issuance of regulations requiring any U.S. person "receiving a request" to take action which has the effect of furthering or supporting certain boycotts to report that fact to the Secretary of Commerce. The proposed regulations provided that a person who takes action to comply with an anticipated boycott request must report such action as if a request had actually been received.

Some who commented argued that a rule which requires reporting of actions in anticipation of requests is unauthorized since the statute explicitly requires only reports of "requests," and where no request is received, no reporting obligation can legally arise.

The final regulations accept this view. A request must be received before a reporting obligation arises. However, the Department wishes to

emphasize that the term "request" is construed broadly. It includes a situation where an exporter is negotiating a transaction with a boycotting country, knows that he will be asked to supply certain reportable boycott information at the conclusion of the negotiations, and, in an effort to forestall receipt of the request and thereby avoid having to file a report, supplies the information in advance. The term "request" also includes a solicitation, directive, legend, or instruction that asks for information or that asks that a U.S. person take or refrain from taking a particular action. Requests which are reportable may be either oral or written and may take many forms. For example, if an exporter asks, authorizes, or instructs his freight forwarder to do whatever is necessary to ship goods to a boycotting country and the freight forwarder pursuant to that request takes action to comply with a boycott requirement such as obtaining a certification that the vessel on which the goods will be shipped is not blacklisted, the freight forwarder has received a reportable request for purposes of these regulations. Such request is deemed to have been received at the time the boycott compliance action is undertaken.

#### MANNER OF REPORTING

The proposed regulations provided that reports be submitted by the last day of the month following the month in which the boycott request was received.

A number of persons commented that the reporting periods should be quarterly and not monthly and that reports of requests received by U.S. persons, especially those received by controlled foreign subsidiaries and affiliates, should be submitted by the last day of the second month following the period in which the request was received.

The final regulations provide a two-stage set of requirements. For U.S. persons located in the United States, reports of requests received through June 30, 1979, must be postmarked by the last day of the month following the month in which the request was received; thereafter, reports must be postmarked by the last day of the month following the calendar quarter in which the request was received.

For U.S. persons located outside the United States, reports of requests received through June 30, 1979, must be postmarked by the last day of the second month following the month in which the request was received; thereafter, each report must be postmarked by the last day of the second month following the calendar quarter in which the request was received.

The reason for this approach is the Department's recognition of the fact that preparing and reviewing reports

12 times a year may be more costly and burdensome for a reporting person than doing so 4 times a year. In an effort to ease this burden and reduce the cost of reporting, the regulations require only quarterly reporting after mid-1979. However, the regulations require monthly reporting until mid-1979 because of the pressing need to monitor and review developments in boycott practices and changes in boycott requests as a result of the implementation of the statute's substantive provisions on January 18, 1978 and June 22, 1978. Quarterly reporting at the outset would result in unacceptable delays in the receipt of important boycott information at the early stages of the new statute's implementation.

With respect to the deadline for submitting reports, the Department believes that a period of 1 month following the period in which a request is received by a U.S. person located in the United States is a reasonable deadline, and the proposed regulations remain unchanged in that respect.

For requests received by controlled foreign subsidiaries and affiliates, 2 months following the reporting period is a more realistic deadline, and the proposed regulations have been changed accordingly. This modification helps to ensure adequate time for more meaningful, accurate, and complete reporting of requests received by controlled firms in foreign countries especially where parent companies opt to report on behalf of their subsidiaries.

#### PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION

The statute provides that any report filed pursuant to these regulations is to be made available promptly for public inspection and copying. The statute also provides for preserving the confidentiality of certain information contained in the report.

The proposed regulations provided that if a reporting person certified that he or anyone to whom the report relates would be placed at a competitive disadvantage through the disclosure of information regarding the quantity, description, or value of any goods to which the report relates, such information would not be disclosed unless the Secretary of Commerce determined that disclosure would not place the person involved at a competitive disadvantage or that it would be contrary to the national interest to withhold the information.

Some persons commented that all information, whether or not certified to be proprietary, should be disclosed to the public unless the Secretary of Commerce on a case-by-case basis made a determination that disclosure would place the United States person involved at a competitive disadvan-

tage. Others agreed with the position taken in the proposed regulations and, in addition, urged that the Secretary give both notice and a hearing before deciding to release information certified to be proprietary.

In final form the proposed regulations remain essentially unchanged except to provide that, in the event the Secretary considers making a determination that competitive disadvantage would not result from public release of withheld proprietary information, appropriate notice and an opportunity for comment will be given before any disclosure is made. Fairness, as well as the irreversibility of public disclosure, commands that reporting persons be given notice of the potential public disclosure of proprietary information which they are required to report to the Department.

The final regulations do not adopt the case-by-case system under which business proprietary information would be protected from public disclosure only after each request for confidentiality had been approved. Such a system would impose on the Department an administrative burden which it could not possibly meet.

The promulgation of these regulations is exempt from Administrative Procedure Act rulemaking procedures.

**DRAFTING INFORMATION:** The principal authors of these regulations were Stanley J. Marcuss, Deputy Assistant Secretary for Trade Regulation; Vincent J. Rocque, Bureau of Trade Regulation; Homer E. Moyer, Deputy General Counsel; Kent N. Knowles, Deputy Assistant General Counsel for Industry and Trade; and Pamela P. Breed, Office of General Counsel.

In consideration of the foregoing, § 369.6 of title 15 of the Code of Federal Regulations is revised as set forth below.

Issued in Washington, D.C., on June 29, 1978.

STANLEY J. MARCUSS,  
Deputy Assistant Secretary  
for Trade Regulation.

#### § 369.6 Reporting requirements.

##### (a) *Scope of reporting requirements.*

(1) A United States person who receives a request to take any action which has the effect of furthering or supporting a restrictive trade practice or boycott fostered or imposed by a foreign country against a country friendly to the United States or against any United States person must report such request to the Department of Commerce in accordance with the requirements of this section. Such a request may be either written or oral and may include a request to furnish information or enter into or implement an agreement. It may also include a solicitation, directive, legend

or instruction that asks for information or that asks that a United States person take or refrain from taking a particular action. Such a request shall be reported regardless of whether the action requested is prohibited or permissible under this part, except as otherwise provided by this section.

(2) For purposes of this section, a request received by a United States person is reportable if he knows or has reason to know that the purpose of the request is to enforce, implement, or otherwise further, support or secure compliance with an unsanctioned foreign boycott or restrictive trade practice.

(i) A request received by a United States person located in the United States is reportable if it is received in connection with a transaction or activity in the interstate or foreign commerce of the United States, as determined under § 369.1(d) (1)-(5) and (18).

(ii) A request received by a United States person located outside the United States (that is, a foreign subsidiary, partnership, affiliate, branch, office, or other permanent foreign establishment which is controlled in fact by any domestic concern, as determined under § 369.1(c) is reportable if it is received in connection with a transaction or activity in the interstate or foreign commerce of the United States, as determined under § 369.1(d) (6)-(17) and (19).

(iii) A request such as a boycott questionnaire, unrelated to a particular transaction or activity, received by any United States person is reportable when such person has or anticipates a business relationship with or in a boycotting country involving the sale, purchase or transfer of goods or services (including information) in the interstate or foreign commerce of the United States, as determined under § 369.1(d).

(3) These reporting requirements apply to all United States persons. They apply whether the United States person receiving the request is an exporter, bank or other financial institution, insurer, freight forwarder, manufacturer, or any other United States person subject to this part.

(4) The acquisition of information about a boycotting country's boycott requirements through the receipt or review of books, pamphlets, legal texts, exporters' guidebooks and other similar publications does not constitute receipt of a reportable request for purposes of this section. In addition, a United States person who receives an unsolicited invitation to bid, or similar proposal, containing a boycott request has not received a reportable request for purposes of this section where he does not respond to the invitation to bid or other proposal.

(5) Similarly, because of their common use for non-boycott purposes

and because of congressional mandates to provide clear and precise guidelines in areas of inherent uncertainty as well as to minimize paperwork and reduce the cost of reporting (Export Administration Act of 1969, as amended, section 7(d); Conference Report No. 95-354, 95th Congress, 1st Session, p. 29; Senate Report No. 95-104, 95th Congress, 1st Session, p. 37), the following are not reportable:

(i) A request to refrain from shipping goods on a carrier which files the flag of a particular country or which is owned, chartered, leased or operated by a particular country or by nationals or residents of a particular country;

(ii) A request to ship goods via a prescribed route, or a request to refrain from shipping goods via a proscribed route;

(iii) A request to supply an affirmative statement or certification regarding the country of origin of goods;

(iv) A request to supply an affirmative statement or certification regarding the name of the supplier or manufacturer of the goods shipped or the name of the provider of services;

(v) A request to comply with the laws of another country except where the request expressly requires compliance with that country's boycott laws;

(vi) A request to an individual to supply information about himself or a member of his family for immigration, passport, visa, or employment purposes;

(vii) A request to supply an affirmative statement or certification indicating the destination of exports or confirming or otherwise indicating that such cargo will be unloaded or discharged at a particular destination.

(6) No United States person may engage in any transaction or take any other action, either independently or through any other person, with intent to evade the provisions of this part.

(7) From time to time the Department will survey domestic concerns for purposes of determining the worldwide scope of boycott requests received by their controlled foreign subsidiaries and affiliates with request to their activities outside United States commerce. This pertains to requests which would be reportable under this section but for the fact that the activities to which the requests relate are outside United States commerce. The information requested will include the number and nature of non-reportable boycott requests received, the action(s) requested, the action(s) taken in response and the countries in which the requests originate. The results of such surveys, including the names of those surveyed, will be made public.

(b) *Manner of reporting.* (1) Each reportable request must be reported. However, it more than one document (such as an invitation to bid,

purchase order, or letter of credit) containing the same boycott request is received as part of the same transaction, only the first such request need be reported. Individual shipments against the same purchase order or letter of credit are to be treated as part of the same transaction. Each different boycott request associated with a given transaction must be reported, regardless of how or when the request is received.

(2) Each United States person actually receiving a reportable request must report that request. However, such person may designate someone else to report on his behalf. For example, a United States company, if authorized, may report on behalf of its controlled foreign subsidiary or affiliate; a freight forwarder, if authorized, may report on behalf of the exporter; and a bank, if authorized, may report on behalf of the beneficiary of a letter of credit. If a person designated to report a request received by another receives an identical request directed to him in connection with the same transaction, he may file one report on behalf of himself and the other person.

(3) Where a person is designated to report on behalf of another, the person receiving the request remains liable for any failure to report or for any representations made on his behalf. Further, anyone reporting on behalf of another is not relieved of his own responsibility for reporting any boycott request which he receives, even if it is an identical request in connection with the same transaction.

(4) Reports must be submitted in duplicate to the Bureau of Trade Regulation, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230. Each submission must be made in accordance with the following requirements:

(i) Where the person receiving the request is a United States person located in the United States, each report of requests received through June 30, 1979 must be postmarked by the last day of the month following the month in which the request was received. Thereafter, each submission must be postmarked by the last day of the month following the calendar quarter in which the request was received (e.g., April 30 for the quarter consisting of January, February, and March); and

(ii) Where the person receiving the request is a United States person located outside the United States, each report of requests received through June 30, 1979 must be postmarked by the last day of the second month following the month in which the request was received. Thereafter, each submission must be postmarked by the last day of the second month following the calendar quarter in which the request was received (e.g., May 31 for

the quarter consisting of January, February, and March).

(5) At the reporting person's option, reports may be submitted on either a single transaction form (ITA-621P (revised 8-78)) or on a multiple transaction form (ITA 6051P (8-78)). Use of the multiple transaction form permits the reporting person to provide on one form all required information relating to as many as 75 reportable requests received within any single reporting period.

(6) Reports, whether submitted on the single transaction form or on the multiple transaction form, must contain entries for every applicable item on the form, including whether the reporting person intends to take or has taken the action requested. If the reporting person has not decided what action he will take by the time the report is required to be filed, he must later report the action he decides to take within 10 business days after deciding. In addition, anyone filing a report on behalf of another must so indicate and identify that other person.

(7) Each report of a boycott request must be accompanied by two copies of the relevant page(s) of any document(s) in which the request appears. Reports may also be accompanied by any additional information relating to the request as the reporting person desires to provide concerning his response to the request.

(8) Records containing information relating to a reported boycott request, including a copy of any document(s) in which the request appears, must be maintained by the reporting person for a 3-year period after filing the report. The Department may require that these materials be submitted to it or that it have access to them at any time within that period.

(c) *Disclosure of information.* (1) Reports of requests received on or after October 7, 1976, as well as any accompanying documents filed with the reports, have been and will continue to be made available for public inspection and copying, except for certain proprietary information. With respect to reports of requests received on or after August 1, 1978, if the person making the report certifies that a United States person to whom the report relates would be placed at a competitive disadvantage because of the disclosure of information regarding the quantity, description, or value of any articles, materials, and supplies, including related technical data and other information, whether contained in a report or in any accompanying document(s), such information will not be publicly disclosed unless the Secretary of Commerce determines that disclosure would not place the United States person involved at a competitive disadvantage or that it

would be contrary to the national interest to withhold the information. In the event the Secretary of Commerce considers making such a determination concerning competitive disadvantage, appropriate notice and an opportunity for comment will be given before any such proprietary information is publicly disclosed. In no event will requests of reporting persons to withhold any information contained in the report other than that specified above be honored.

(2) Because a copy of any document(s) accompanying the report will be made available for public inspection and copying, one copy should be submitted intact and another copy should be edited by the reporting entity to delete the same information which it certified in the report would place a United States person at a competitive disadvantage if disclosed. This copy should be conspicuously marked with the legend "Public Inspection Copy."

(3) Reports and accompanying documents which are available to the public for inspection and copying are located in the ITA Freedom of Information Records Inspection Facility, Room 3012, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Requests to inspect such documents should be addressed to that facility.

(4) The Secretary of Commerce will periodically transmit summaries of the information contained in the reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies in section 3(5) of the Export Administration Act of 1969, as amended.

#### EXAMPLES

The following examples are intended to give guidance in determining what is reportable. They are illustrative, not comprehensive.

(I) A, a U.S. manufacturer, is shipping goods to boycotting country Y and is asked by Y to certify that it is not blacklisted by Y's boycott office.

The request to A is reportable, because it is a request to A to comply with Y's boycott requirements.

(II) A, a U.S. manufacturing company, receives an order for tractors from boycotting country Y. Y's order specifies that the tires on the tractors be made by B, another U.S. company. A believes Y has specified B as the tire supplier because otherwise A would have used tires made by C, a blacklisted company, and Y will not take shipment of tractors containing tires made by blacklisted companies.

A must report Y's request for tires made by B, because A has reason to know that B was chosen for boycott reasons.

(III) Same as (II), except A knows that Y's request has nothing to do with the boycott but simply reflects Y's preference for tires made by B.

Y's request is not reportable, because it is unrelated to Y's boycott.

(iv) Same as (ii), except A neither knows nor has reason to know why Y has chosen B.

Y's request is not reportable, because A neither knows nor has reason to know that Y's request is based on Y's boycott.

(v) A, a controlled foreign subsidiary of U.S. company B, is a resident of boycotting country Y. A is a general contractor. After being supplied by A with a list of competent subcontractors, A's customer instructs A to use subcontractor C on the project. A believes that C was chosen because, among other things, the other listed subcontractors are blacklisted.

The instruction to A by its customer that C be used on the project is reportable, because it is a request to comply with Y's boycott requirements.

(vi) A, a controlled foreign subsidiary of U.S. company B, is located in nonboycotting country P. A receives an order for washing machines from boycotting country Y. Y instructs A that a negative certificate of origin must accompany the shipment. The washing machines are made wholly in P, without U.S. components.

Y's instruction to A regarding the negative certificate of origin is not reportable, because the transaction to which it relates is not in U.S. commerce.

(vii) Same as (vi), except that A obtains components from the United States for the purpose of filling the order from Y.

Y's instruction to A regarding the negative certificate of origin is reportable, because the transaction to which it relates is in U.S. commerce.

(viii) A, a U.S. construction company, receives in the mail an unsolicited invitation to bid on a construction project in boycotting country Y. The invitation to bid requires those who respond to certify that they do not have any plants or branch offices in boycotted country X. A does not respond.

A's receipt of the unsolicited invitation to bid is not reportable, because the request does not relate to any present or anticipated business of A with or in Y.

(ix) Same as (viii), except that A receives a boycott questionnaire from a central boycott office. A does not do business in any of the boycotting countries involved, and does not anticipate doing any business in those countries. A does not respond.

A's receipt of the boycott questionnaire is not reportable, because it does not relate to any present or anticipated business by A with or in a boycotting country.

(x) A, a U.S. manufacturer, is seeking markets in which to expand its exports. A sends a representative to boycotting country Y to explore Y's potential as a market for A's products. A's representative discusses its products but does not enter into any contracts on that trip. A does, however, hope that sales will materialize in the future. Subsequently, A receives a boycott questionnaire from Y.

A's receipt of the boycott questionnaire is reportable, because the request relates to A's anticipated business with or in a boycotting country. For purposes of determining whether a report is required, it makes no difference whether A responds to the questionnaire, and it makes no difference that actual sales contracts are not in existence or do not materialize.

(xi) Same as (x), except that A's representative enters into a contract to sell A's products to a buyer in boycotting country Y. Subsequently, A receives a boycott questionnaire from Y.

A's receipt of the boycott questionnaire is reportable, because it relates to A's present business with or in a boycotting country. For purposes of determining whether a report is required, it makes no difference whether A responds to the questionnaire.

(xii) A, a U.S. freight forwarder, purchases an exporters' guidebook which includes the import requirements of boycotting country Y. The guidebook contains descriptions of actions which U.S. exporters must take in order to make delivery of goods to Y.

A's acquisition of the guidebook is not reportable, because he has not received a request from anyone.

(xiii) A, a U.S. freight forwarder, is arranging for the shipment of goods to boycotting country Y at the request of B, a U.S. exporter. B asks A to assume responsibility to assure that the documentation accompanying the shipment is in compliance with Y's import requirements. A examines an exporters' guidebook, determines that Y's import regulations require a certification that the insurer of the goods is not blacklisted and asks U.S. insurer C for such a certification.

B's request to A is reportable by A, because it constitutes a request to comply with Y's boycott as of the time A takes action to comply with Y's boycott requirements in response to the request. A's request to C is reportable by C.

(xiv) A, a U.S. freight forwarder, is arranging for the shipment of U.S. goods to boycotting country Y. The manufacturer supplies A with all the necessary documentation to accompany the shipment. Among the documents supplied by the manufacturer is his certificate that he himself is not blacklisted. A transmits the documentation supplied by the manufacturer.

A's action in merely transmitting documents received from the manufacturer is not reportable, because A has received no request to comply with Y's boycott.

(xv) Same as (xiv), except that A is asked by U.S. exporter B to assume the responsibility to assure that the necessary documentation accompanies the shipment whatever that documentation might be. B forwards to A a letter of credit which requires that a negative certificate of origin accompany the bill of lading. A supplies a positive certificate of origin.

Both A and B must report receipt of the letter of credit, because it contains a request to both of them to comply with Y's boycott.

(xvi) Same as (xiv), except that the manufacturer fails to supply a required negative certificate of origin, and A is subsequently asked by a consular official of Y to see to it that the certificate is supplied. A supplies a positive certificate of origin.

The consular official's request to A is reportable by A, because A was asked to comply with Y's boycott requirements by supplying the negative certificate of origin.

(xvii) A, a U.S. manufacturer, is shipping goods to boycotting country Y. Arrangements have been made for freight forwarder B to handle the shipment and secure all necessary shipping certifications. B notes that the letter of credit requires that the manufacturer supply a negative certificate of origin and B asks A to do so. A supplies a positive certificate of origin.

B's request to A is reportable by A, because A is asked to comply with Y's boycott requirements by providing the negative certificate.

(xviii) A, a controlled foreign subsidiary of U.S. company B, is a resident of boycotting

country Y. A is engaged in oil exploration and drilling operations in Y. In placing orders for drilling equipment to be shipped from the United States, A, in compliance with Y's laws, selects only those suppliers who are not blacklisted.

A's action in choosing nonblacklisted suppliers is not reportable, because A has not received a request to comply with Y's boycott in making these selections.

(xix) A, a controlled foreign subsidiary of U.S. company B, is seeking permission to do business in boycotting country Y. Before being granted such permission, A is asked to sign an agreement to comply with Y's boycott laws.

The request to A is reportable, because it is a request that expressly requires compliance with Y's boycott law and is received in connection with A's anticipated business in Y.

(xx) A, a U.S. bank, is asked by a firm in boycotting country Y to confirm a letter of credit in favor of B, a U.S. company. The letter of credit calls for a certificate from B that the goods to be supplied are not produced by a firm blacklisted by Y. A informs B of the letter of credit, including its certification condition, and sends B a copy.

B must report the certification request contained in the letter of credit, and A must report the request to confirm the letter of credit containing the boycott condition, because both are being asked to comply with Y's boycott.

(xxi) Same as (xx), except that the letter of credit calls for a certificate from the beneficiary that the goods will not be shipped on a vessel that will call at a port in boycotted country X before making delivery in Y.

The request is not reportable, because it is a request of a type deemed by this section to be in common use for nonboycott purposes.

(xxii) A, a U.S. company, receives a letter of credit from boycotting country Y stating that on no condition may a bank blacklisted by Y be permitted to negotiate the credit.

A's receipt of the letter of credit is reportable, because it contains a request to A to comply with Y's boycott requirements.

(xxiii) A, a U.S. bank, receives a demand draft from B, a U.S. company, in connection with B's shipment of goods to boycotting country Y. The draft contains a directive that it is valid in all countries except boycotted country X.

A's receipt of the demand draft is reportable, because it contains a request to A to comply with Y's boycott requirements.

(xxiv) A, a U.S. exporter, receives an order from boycotting country Y. On the order is a legend that A's goods, invoices, and packaging must not bear a six-pointed star or other symbol of boycotted country X.

A's receipt of the order is reportable, because it contains a request to comply with Y's boycott requirements.

(xxv) Same as (xxiv), except the order contains a statement that goods exported must not represent part of war reparations to boycotted country X.

A's receipt of the order is reportable, because it contains a request to A to comply with Y's boycott requirements.

(xxvi) A, a U.S. contractor, is negotiating with boycotting country Y to build a school in Y. During the course of the negotiations, Y suggests that one of the terms of the construction contract be that A agree not to import materials produced in boycotted country X. It is A's company policy not to agree to such a contractual clause, and A



suggests that instead it agree that all of the necessary materials will be obtained from U.S. suppliers. Y agrees to A's suggestion and a contract is executed.

A has received a reportable request, but, for purposes of reporting, the request is deemed to be received when the contract is executed.

(xxvii) Same as (xxvi), except Y does not accept A's suggested alternative clause and negotiations break off.

A's receipt of Y's request is reportable. For purposes of reporting, it makes no difference that A was not successful in the negotiations. The request is deemed to be received at the time the negotiations break off.

(xxviii) A, a U.S. insurance company, is insuring the shipment of drilling equipment to boycotting country Y. The transaction is being financed by a letter of credit which requires that A certify that it is not black-listed by Y. Freight forwarder B asks A to supply the certification in order to satisfy the requirements of the letter of credit.

The request to A is reportable by A, because it is a request to comply with Y's boycott requirements.

(xxix) A, a U.S. manufacturer, is engaged from time to time in supplying drilling rigs to company B in boycotting country Y. B insists that its suppliers sign contracts which provide that even after title passes from the supplier to B, the supplier will bear the risk of loss and indemnify B if goods which the supplier has furnished are denied entry into Y for whatever reason. A knows or has reason to know that this contractual provision is required by B because of Y's boycott. A receives an order from B which contains such a clause.

B's request is reportable by A, because it is a request to A in connection with his busi-

ness with or in Y, and A knows or has reason to know that the purpose of the request is to further Y's boycott.

(xxx) A, a U.S. citizen, is a shipping clerk for B, a U.S. manufacturing company. In the course of his employment, A receives an order for goods from boycotting country Y. The order specifies that none of the components of the goods is to be furnished by blacklisted firms.

B must report the request received by its employee, A, acting in the scope of his employment. Although A is a U.S. person, such an individual does not have a separate obligation to report requests received by him in his capacity as an employee of B.

(xxxi) U.S. exporter A is negotiating a transaction with boycotting country Y. A knows that at the conclusion of the negotiations he will be asked by Y to supply certain boycott-related information and that such a request is reportable. In an effort to forestall the request and thereby avoid having to file a report, A supplies the information in advance.

A is deemed to have received a reportable request.

(xxxii) A, a controlled foreign affiliate of U.S. company B, receives an order for computers from boycotting country Y and obtains components from the United States for the purpose of filling the order. Y instructs A that a negative certificate of origin must accompany the shipment.

Y's instruction to A regarding the negative certificate of origin is reportable by A. Moreover, A may designate B or any other person to report on its behalf. However, A remains liable for any failure to report or for any representations made on its behalf.

[FR Doc. 78-18468 Filed 6-29-78; 2:34 pm]





WEDNESDAY, JULY 5, 1978

PART IV



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# ENVIRONMENTAL PROTECTION AGENCY

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## PROTESTS OF GRANTEE PROCUREMENT ACTIONS UNDER GRANTS FOR CONSTRUCTION OF PUBLICLY OWNED TREATMENT WORKS

Subject Index List of  
Regional Administrator  
Protest Determinations

# ENVIRONMENTAL PROTECTION AGENCY

[FRL 913-6]

## PROTESTS OF GRANTEE PROCUREMENT ACTIONS UNDER GRANTS FOR CONSTRUCTION OF PUBLICLY OWNED TREATMENT WORKS

### Subject Index List of Regional Administrator Protest Determinations

This notice provides a subject matter index of Regional Administrator protest determinations issued under 40 CFR § 35.939 (July 1, 1977 ed.). The bid protest process is a management by exception technique to review grantee procurement for compliance with minimum standards, principally, under the construction grants program of the Environmental Protection Agency. Each determination constitutes final Agency action from which there is no further administrative appeal. 40 CFR § 35.939(e)(3).

The subject listing contains the determinations issued from the introduction of the protest process (see 39 FR 5252; February 11, 1974), through December 31, 1977. The subject headings reflect issues which may arise in the EPA protest process. Citations to relevant EPA regulations are provided, where applicable. For administrative convenience, these citations are to the July 1, 1977 edition of Title 40 of the Code of Federal Regulations. Asterisked determinations contain a particularly expansive discussion or important resolution of the subject indexed.

The determinations are cited informally, for administrative convenience. The preferred citation form is, *Grantee, State (EPA Region —, full date of determination) (Protest of —)*.

We expect to publish the text of the bid protest determinations within the next several months. In the meantime, copies of individual decisions may be examined or obtained from the EPA Regional Councils or from the headquarters source identified below.

Interested parties are invited to submit comments concerning improvement, or correction, of the subject index list to Joseph M. Zorc, Assistant General Counsel, Grants (A-134), Office of General Counsel, United States Environmental Protection Agency, Washington, D.C. 20460. Comments should be made within sixty (60) days of this publication.

### FOR FURTHER INFORMATION CONTACT:

Christopher L. Risetto, Grants, Contracts and General Administration Division (A-134), Office of General Counsel, United States Environmental Protection Agency, Washington, D.C., 20460, 202-755-8108.

Dated: June 12, 1978.

JOAN Z. BERNSTEIN,  
General Counsel

### Ambiguity (but see Bids; Mistake).

1. Huntington, West Virginia (III, 4-9-76) (National Engineering and Contracting Co.; and Envirotech Corp.)
2. Passaic Valley Sewerage Commissioners, Newark, New Jersey (II, 12-10-77) (BSP Division of Envirotech Corp.)

### Architect/Engineering Procurement (§ 35.937).

1. Bridgewater, New Jersey (II, 3-31-76) (Havens and Emerson, Ltd.)
2. Berkeley - Charleston - Dorchester, South Carolina (IV, 7-19-76) (§ 208 grant) (Davis & Floyd Engineers, Inc.)
- \*3. Lynn, Massachusetts (I, 10-21-76) (Clinton Bogert Associates)
4. Bridgeport, Connecticut (I, 11-22-76) (Connecticut Engineers in Private Practice)
5. Rhode Island Statewide Planning Program (I, 3-4-77) (§ 208 grant) (C. E. Maguire Inc.)
6. Rhode Island Statewide Planning Program (I, 3-26-77) (§ 208 grant) (C. E. Maguire Inc.)
7. Atlanta, Georgia (IV, 5-11-77) (Mayer and Associates)
- \*8. San Francisco, California (IX, 6-20-77) (McKee-Berger-Mansueto Inc.)

### Award-Prime Contract (e.g. pending resolution of subcontract issue).

1. Grand Forks, North Dakota (VIII, 8-15-74) (Komline-Sanderson)
2. Omaha, Nebraska (VII, 9-14-74) (Datamaster Division—ACCO)
3. Spokane, Washington (X, 1-9-76) (BBR Prestressed Tanks Inc.)
- \*4. McFarland, California (IX, 9-29-77) (Lagoon Aeration Corp.)

### Bid Shopping.

- \*1. Hollywood, Florida (IV, 3-13-74) (Morganti-South Inc.)
2. Jacksonville, Florida (IV, 8-12-74) (Adrian Construction Corp.)
3. Washington Suburban Sanitary Commission, Maryland (III, 10-15-75) (Volpe Construction Co.; and John C. Grimberg Co.)
4. Winter Haven, Florida (IV, 11-26-75) (Griffin Construction Co.)
- \*5. Miami-Dade Water and Sewer Authority, Florida (IV, 3-11-76) (George Hyman Construction Co.)
- \*6. Upper Occoquan Sewer Authority (Manassas Park), Virginia (III, 6-24-76) (Savoy Construction Co.)
7. Amherst, New York (II, 7-2-76) (Air Products & Chemicals Inc.)
8. York, Pennsylvania (III, 4-22-77) (Union Carbide Corp.)
- \*9. St. Paul (Metropolitan Waste Control Commission), Minnesota (V, 5-3-77) (Palco; and Kraus-Anderson)

### Bids (see, Formal Advertising; Mistake).

### (A) Late:

1. Rawlins, Wyoming (VIII, 11-16-77) (Wind River Constructors Inc.)

### (B) Modification:

1. Gainesville-Alachua County \* \* \* Board, Florida (IV, 7-10-75) (Gruman Ecosystems)
2. Monroe, Washington (X, 12-31-75) (Will Construction Co.)
3. Concord, North Carolina (IV, 10-8-76) (Mercury Construction Corp.)
4. Gary, Indiana (V, 10-19-76) (Fora Construction Co.; and the Robinson Group, Inc.)
5. Lynden, Washington (X, 5-16-77) (oral) (Arcomm Construction Co.)

### (C) Unbalanced:

1. Omaha, Nebraska (VII, 9-14-74) (Datamaster Division—ACCO)
- \*2. Philadelphia, Pennsylvania (Northeast Plant) (III, 12-6-76) (Sovereign Construction Co.)
3. Bridgewater, New Jersey (II, 12-2-77) (Lombardo Contracting Co.)
- \*4. Ramsey, New Jersey (II, 12-2-77) (P. & A. Construction Co.)

### Bonds (§§ 35.935-3 and 35.936-13(c)).

1. Lexington, Virginia (III, 8-14-74) (surety bond; subcontractor performance) (Hydro Systems, Inc.)
2. Manitowoc, Wisconsin (V, 12-18-74) (Paul A. Lawrence Co.)
3. Clearwater, Florida (IV, 3-14-75) (bid bond) (Harry Pepper & Associates)
4. Bradford, Vermont (I, 6-6-77) (Carvel Co.)
5. Cumming, Georgia (IV, 9-28-77) (performance bond) (Newkirk Construction Co.)
6. Kansas City, Kansas (VII, 11-17-77) (experience bond) (Nichols Engineering and Research Corp.; and Zimpro, Inc.)
- \*7. Passaic Valley Sewerage Commissioners, Newark, New Jersey (II, 12-10-77) (experience bond) (BSP Division of Envirotech Corp.)

### Burden of Proof (§ 35.939(g)).

1. Omaha, Nebraska (VII, 9-14-74) (Datamaster Division—ACCO)
2. Grand Forks, North Dakota (VIII, 9-25-74) (Komline-Sanderson)
3. Phoenix, New York (II, 5-7-76) (Vincent J. Fasano Inc.)
4. Round Hill, Virginia (III, 5-13-76) (Frank L. Black Jr.)
5. Sioux City, Iowa (VII, 7-12-76) (U.S. Enviro-Con, Inc.)
6. Norwalk, Connecticut (I, 11-16-76) (Brunalli Construction Co.)
7. Fairfax, Virginia (III, 4-14-77) (Concrete Pipe & Products Inc.)
8. St. Paul (Metropolitan Waste Control Commission), Minnesota (V, 5-3-77) (Palco; and Kraus-Anderson)
9. Montgomery, Alabama (IV, 5-11-77) (Envirotech Corp.)
10. Ceres, California (IX, 6-20-77) (W. M. Lyles Co.)
11. Pepperell, Massachusetts (I, 11-22-77) (Catamount Construction Co.)

*Buy American Act Requirements* (Recently made applicable by Section 215 of the Clean Water Act of 1977; Pub. L. No. 95-217).

*Choice of Law—General*

1. Alexandria, Virginia (III, 4-4-75) (taxes) (John C. Grimberg, Inc.)
2. Davenport, Iowa (VII, 4-11-75) (Lametti & Sons)
3. Fresno, California (IX, 7-10-75) (Doriman Construction Co.)
4. Tahoe-Truckee Sanitation Agency, California (IX, 8-21-75) (Jos. Ramos Co.; and Contri-Hood)
5. Henry, South Dakota (VIII, 9-15-75) (Henningsen Construction Co.)
6. Sunnyvale, California (IX, 12-5-75) (ABF Contractors)
7. Clark County (Las Vegas), Sanitary District (No. 1), Nevada (IX, 12-24-75) (Bovee & Crail Construction Co.)
8. Palmer Lake, Colorado (VIII, 1-16-76) (Dugan Construction Co.)
9. Ruston, Louisiana (VI, 3-18-76) (Allan J. Harris Co., Inc.)
10. Concord, North Carolina (IV, 10-8-76) (Mercury Construction Co.)
- \*11. St. Paul (Metropolitan Waste Control Commission), Minnesota (V, 12-3-76) (Kvalsten Electric)
12. Bradford, Vermont (I, 3-4-77) (Cummings)
- \*13. St. Paul (Metropolitan Waste Control Commission), Minnesota (V, 5-3-77) (Palco; and Kraus-Anderson)

*Choice of Law—Federal Procurement Law, Applicability of (§35.936-10).*

1. Denver (City), Colorado (VIII, 4-22-74) (Pinkard Donovan)
2. Englewood and Littleton, Colorado (VIII, 2-10-75) (Air Products & Chemicals Inc.)
3. Woonsocket, Rhode Island (I, 6-20-75) (Westcott Construction Co.)
4. South Portland, Maine (I, 10-7-75) (Pizzagalli Construction Co.)
5. Winter Haven, Florida (IV 11-26-75) (Griffin Construction Co.)

*Choice of Law—Fundamental Federal Procurement Principles (see also, Rational Basis Test).*

- \*1. Monroe, Washington (X, 1-9-76) (Will Construction Co.)
2. Bergen County, New Jersey (II, 9-28-76) (Wm. L. Crow-Wolff & Munier, Joint Venture)
3. Puerto Rico Aqueduct & Sewer Authority (II, 3-31-77) (Blythe Industries, Inc.)
4. Lynden, Washington (X, 5-16-77) (Arcomm Construction Co.)
5. St. Paul (Metropolitan Waste Control Commission), Minnesota (V, 5-24-77) (Elmco-BSP Services Co.)
6. Cheektowaga, New York (II, 8-31-77) (Amadori Construction Co.)
7. McFarland, California (IX, 9-29-77) (Lagoon Aeration Corp.)
8. Brick Township, New Jersey (II, 11-22-77) (P & A Construction Co.)
9. Corvallis, Oregon (X, 12-6-77) (Frank Coluccio Construction Co.)

*Choice of Law—GAO Decisions, Effects of (§35.939(f)).*

1. Upper Occoquan Sewer Authority (Manassas Park), Virginia (III, 11-13-75) (John C. Grimberg Inc.)
2. Huntington, West Virginia (III, 4-9-76) (National Engineering and Contracting Co.; and Envirotech Corp.)
3. Upper Occoquan Sewer Authority (Manassas Park), Virginia (III, 6-24-76) (Savoy Construction Co.)
4. Ft. Lauderdale, Florida (IV, 7-18-77) (Inman Inc.)
5. Rawlins, Wyoming (VIII, 11-16-77) (Wind River Constructors, Inc.)
6. Bridgewater, New Jersey (II, 12-2-77) (Lombardo Contracting Co.)
7. Ramsey, New Jersey (II, 12-2-77) (P. & A. Construction Co.)

*Choice of Law—State Law, Applicability of (§§35.936-2; 35.937-5; 35.939(j)(3)).*

1. Lowell, Massachusetts (I, 4-1-76) (United Electrical Contractors)
2. Lowell, Massachusetts (I, 4-2-76) (Honeywell Corp.)
3. Haverstraw, New York (II, 6-24-76) (Fletcher Creamer & Son)
4. Denver (City and County), Colorado (VIII, 7-9-76) (Frank Briscoe Co., Inc.)
5. McKinleyville Community Sanitary District (Humboldt Co.), California (IX, 8-13-76) (McGuire & Hester)
6. San Mateo, California (IX, 8-17-76) (Elmer Freethy)
7. Middlesex (Bound Brook Pump Station), New Jersey (II, 6-3-77) (Campanella Construction Co.)
8. Middlesex (Sayreville Relief Pump Station), New Jersey (II, 6-9-77) (Terminal Construction Co.)
9. San Francisco, California (IX, 6-20-77) (McKee-Berger-Mansueto)
10. Sonoma, California (IX, 6-30-77) (P. C. Jensen)
11. Cumming, Georgia (IV, 9-28-77) (NewKirk Construction Co.)

*Competition (§35.936).*

*(A) DeFacto:*

1. Cleveland Regional Sewer District (Southerly Plant), Ohio (V, 11-15-76) (Powercon Corp.)
2. Hope, Arkansas (VI, 9-1-77) (pipe) (Hydro Conduit; Choctaw Culvert (Division of Choctaw Inc.); Jonesboro Concrete Pipe Co.)
3. Contra Costa County, California (IX, 10-25-77) (Armco Steel)

*(B) General—free and open:*

1. Miami-Dade Water and Sewer Authority, Florida (IV, 3-11-76) (George Hyman Construction Co.)
2. Upper Occoquan Sewer Authority (Manassas Park), Virginia (III, 6-24-76) (subcontractor listing) (Savoy Construction Co.)
3. Chatham County (Isle of Hope), Georgia (IV, 7-8-76) (pipe) (Kyle-Gilford-Hill Inc.)
4. Westchester County, New York (II, 9-7-76) (Union Carbide Corp.)

5. Bergen County, New Jersey (II, 9-28-76) (Wm. L. Crow-Wolff & Munier, Joint Venture)

6. Greenwood (Rocky-Coronaca), South Carolina (IV, 10-6-76) (pipe) (Metromount Materials; Carolina Concrete Pipe Co.; Wallace Concrete Pipe Co., Inc.; South Carolina Pipe Association; Amoco Reinforced Plastics Co.)
- \*7. Palm Beach County, Florida (IV, 10-8-76) (pipe) (Price Brothers)
- \*8. Waterford, Connecticut (I, 3-4-77) (Loc Pump and Equipment)
9. Puerto Rico Aqueduct and Sewer Authority (II, 3-31-77) (Blythe Industries, Inc.)
10. Pasadena, Texas (VI, 4-1-77) (Union Carbide Corp.)
11. Parsippany-Troy Hills, New Jersey (II, 7-8-77) (Frank Briscoe)
12. Jackson, Mississippi (IV, 8-19-77) (pipe) (American Cast Iron Pipe Company)
13. Cheektowaga, New York (II, 8-31-77) (Amadori Construction Co.)
14. Orange County, California (IX, 11-2-77) (Pentech Division of Houdaille Industries)
15. Ramsey, New Jersey (II, 12-2-77) (P. & A. Construction Co.)
- \*16. Passaic Valley Sewerage Commissioners, Newark, New Jersey (II, 12-10-77) (BSP Division of Envirotech Corp.)

*Conflict of Interest.*

1. Atlanta, Georgia (IV, 5-11-77) (Mayer & Associates)

*Davis-Bacon Act*

*Deferral of Procurement Action (§35.939(h)).*

1. Westchester Co., New York (II, 3-3-76) (General Building Contractors)
2. Lynn, Massachusetts (I, 10-21-76) (A/E) (Clinton Bogert Associates)
3. Rhode Island Statewide Planning Program (I, 4-26-77) (\$208 grant) (C. E. Maguire Inc.)
4. Jackson, Mississippi (IV, 8-19-77) (restrictive specifications) (American Cast Iron Pipe Co.)
5. Toms Brook-Maurertown, Virginia (III, 9-20-77) (National Hydro Systems)
6. Contra Costa County, California (IX, 10-25-77) (Armco Steel)

*Descriptive Literature Requirement (see also, Responsiveness; Responsibility.)*

1. South Portland, Maine (I, 10-7-75) (Pizzagalli Construction Co.)
2. Upper Occoquan Sewer Authority (Manassas Park), Virginia (III, 11-13-75) (John C. Grimberg)
3. Miami-Dade Water and Sewer Authority, Florida (IV, 9-27-76) (Altman-Myers Construction Inc.)
4. Norwalk, Connecticut (I, 7-22-77) (Primiano Construction Co.)

*Enforcement*

1. Lexington, Virginia (III, 8-14-74) (bond) (Hydro-Systems Inc.)

2. Grand Forks, North Dakota (VIII, 8-15-74) (Kornline-Sanderson)  
 3. Lake Charles, Louisiana (VI, 12-15-74) (Flygt Corp.)  
 4. Tonawanda, New York (II, 8-1-75) (Ingersoll-Rand)  
 5. Clark Co. (Las Vegas) Sanitary District (No. 1) Nevada (IX, 12-24-75) (alternative) (Bovee & Crail Construction Co.)  
 \*6. Spokane, Washington (X, 1-9-76) (BBR Prestressed Tanks Inc.)  
 7. Palmer Lake, Colorado (VIII, 1-16-76) (Dugan Construction Co.)  
 8. Miami-Dade Water and Sewer Authority, Florida (IV, 3-11-76) (George Hyman Construction Co.)  
 9. Sioux City, Iowa (VII, 7-12-76) (U.S. Enviro-Con Inc.)  
 10. Sacramento, California (IX, 9-9-76) (Air Products & Chemicals Inc.)  
 11. Bergen County, New Jersey (II, 9-28-76) (Wm. L. Crow-Wolff & Munier, Joint Venture)  
 12. Palm Beach County, Florida (IV, 10-8-76) (Price Brothers)  
 13. Philadelphia, Pennsylvania (Northeast Plant) (III, 12-6-76) (Sovereign Construction Co.)  
 14. Waterford, Connecticut (I, 12-28-76) (New Ikor I)  
 15. Bradford, Vermont (I, 3-4-77) (Cummings)  
 16. Waterford, Connecticut (I, 3-4-77) (New Ikor II)  
 17. Sioux City, Iowa (VII, 3-17-77) (Ralph B. Carter Inc.; and U.S. Enviro-Con Inc.)  
 18. Puerto Rico Aqueduct and Sewer Authority (II, 3-31-77) (Blythe Industries Inc.)  
 19. Delano, California (IX, 4-8-77) (specification revision) (Hydro Conduit Corp. and Cen-Vi-Ro Concrete Pipe & Products Co., Inc.)  
 \*20. Oklahoma City, Oklahoma (VI, 5-18-77) (Ingersoll-Rand I)  
 21. Miami-Dade Water and Sewer Authority, Florida (IV, 5-25-77) (Morganti South-Wolff & Munier Joint Venture and Intercounty Construction Corp.)  
 22. Watertown, New York (II, 7-5-77) (Vincent J. Fasano, Inc.)  
 23. Oklahoma City, Oklahoma (VI, 7-13-77) (Ingersoll-Rand II)  
 24. Toms Brook—Maurertown, Virginia (III, 9-20-77) (National Hydro Systems)  
 25. McFarland, California (IX, 9-29-77) (Lagoon Aeration Corp.)  
 26. Cranberry Township, Pennsylvania (III, 10-20-77) (Bay-Con Corp.)  
 27. Contra Costa County, California (IX, 10-25-77) (Armco Steel)  
 28. Loxahatchee River Environmental Control District, Florida (IV, 11-3-77) (Guy Villa & Sons Inc.)  
 29. Brick Township, New Jersey (II, 11-22-77) (P. & A. Construction Co.)  
 30. Bridgewater, New Jersey (II, 12-2-77) (Lombardo Contracting Co.)  
 31. Ramsey, New Jersey (II, 12-2-77) (P. & A. Construction Co.)

32. Corvallis, Oregon (X, 12-6-77) (Frank Coluccio Construction Co.)  
 33. Passaic Valley Sewerage Commissioners, Newark, New Jersey (II, 12-10-77) (BSP Division of Envirotech Corp.)

#### Engineering Judgment.

1. Hudson, Wyoming (VIII, 8-1-74) (Environmental Equipment Co.)  
 2. Grand Forks, North Dakota (VIII, 8-15-74) (Kornline-Sanderson)  
 3. Lake Charles, Louisiana (VI, 12-15-74) (Flygt Corp.)  
 4. Englewood and Littleton, Colorado (VIII, 2-10-75) (Air Products and Chemicals Inc.)  
 5. District of Columbia (Blue Plains) (III, 2-20-75) (Kenics Corp.)  
 6. Appleton, Wisconsin (V, 5-17-76) (Philadelphia Mixers Corp.)  
 \*7. Chatham Co., (Isle of Hope), Georgia (IV, 7-8-76) (Kyle-Gifford-Hill Inc.)  
 8. Sioux City, Iowa (VII, 7-12-76) (U.S. Enviro-Con)  
 9. Sacramento, California (IX, 8-12-76) (BBR Prestressed Tanks)  
 10. Miami-Dade Water and Sewer Authority, Florida (IV, 9-27-76) (Altman-Myers Construction Co.)  
 11. North Shore Sanitary District, Illinois (V, 9-28-76) (Keene Corp.; and Premier Electrical Construction Co.)  
 12. Cleveland Regional Sewer District (Southerly Plant), Ohio (V, 11-15-76) (Powercon Corp.)  
 13. Oxnard, California (IX, 12-1-76) (BBR Prestressed Tanks)  
 14. Fredonia, New York (II, 2-28-77) (National Hydro Systems)  
 15. Waterford, Connecticut (I, 3-4-77) (Loc Pump and Equipment)  
 16. Dothan, Alabama (IV, 3-10-77) (Inflico-Degremont)  
 17. Delano, California (IX, 4-8-77) (Hydro Conduit Corp. and Cen-Vi-Ro Concrete Pipe & Products Co., Inc.)  
 18. Sussex, Wisconsin (V, 4-14-77) (Fisher & Porter)  
 19. Montgomery, Alabama (IV, 5-11-77) (Envirotech Corp.)  
 20. Bernice, Louisiana (VI, 6-1-77) (performance data) (National Hydro Systems)  
 21. Watertown, New York (II, 7-5-77) (Vincent J. Fasano, Inc.)  
 22. Oklahoma City, Oklahoma (VI, 7-13-77) (Ingersoll-Rand II)  
 23. Cynthia, Kentucky (IV, 8-11-77) (Lyco-ZF)  
 24. Hope, Arkansas (VI, 9-1-77) (burden of proof) (Hydro Conduit; Choctaw Culvert (Division of Choctaw Inc.); Jonesboro Concrete Pipe Co.)  
 25. Toms Brook—Maurertown, Virginia (III, 9-20-77) (National Hydro Systems)  
 26. McFarland, California (IX, 9-29-77) (Lagoon Aeration Corp.)  
 27. Amherst, New York (II, 11-22-77) (Smith & Associates)

*Experience Requirements* (§ 35.936-13(c)).

\*1. Butler Co. (LeSourdsville Plant), Ohio (V, 1-7-76) (EPCC—Hormel)  
 2. Bernice, Louisiana (VI, 6-1-77) (National Hydro Systems)  
 3. Kansas City, Kansas (VII, 11-17-77) (Nichols Engineering & Research Corp.; and Zimpro)  
 4. Amherst, New York (II, 11-22-77) (Smith & Associates)  
 \*5. Passaic Valley Sewerage Commissioners, Newark, New Jersey (II, 12-10-77) (BSP Division of Envirotech Corp.)

*Equal Employment Opportunity*, (40 CFR Part 8) (see also, *Responsiveness*, but see *Minority Business Enterprise*).

1. Philadelphia, Pennsylvania (Southwest Plant) (III, 2-28-75) (EO 11246—Philadelphia Imposed Plan) (Air Products & Chemicals Inc.; and Remsco Associates)  
 \*2. Woonsocket, Rhode Island (I, 6-20-75) (EO 11246—Certificate) (Westcott)  
 3. Williston Township, Pennsylvania (III, 9-26-75) (EO 11246—Philadelphia Imposed Plan) (Tioga Electric Shop)  
 \*4. Washington Suburban Sanitary Commission, Maryland (III, 12-4-75) (EO 11246—Washington Imposed Plan) (Fattore Construction Co.)  
 5. Sunnyvale, California (IX, 12-5-75) (EO 11246—Certificate) (ABF Contractors)  
 \*6. Westerville, Ohio (V, 4-2-76) (EPA regulations, 40 CFR § 8.8) (Davis-McKee; and G. Igel)  
 7. Denver (City and County), Colorado (VIII, 7-9-76) (Frank Briscoe)  
 8. Occoquan-Woodbridge (Potomac Plant), Virginia (III, 11-12-76) (EO 11246—Washington Imposed Plan) (Briscoe/Courter/Conduit, Joint Venture)  
 9. Washington Suburban Sanitary Commission, Maryland (III, 3-2-77) (EO 11246—Washington Imposed Plan) (C.F. & B. and State Construction Corp., Joint Venture)  
 \*10. St. Paul (Metropolitan Waste Control Commission), Minnesota (V, 5-3-77) (EO 11246—Certificate) (Palco; and Kraus-Anderson)  
 11. Ft. Lauderdale, Florida (IV, 7-18-77) (EO 11246—Certificate) (Inman Inc.)  
 \*12. Huntington, Massachusetts (I, 8-29-77) (EO 11246—Certificate) (Warner Brothers)  
 13. Lower Salford Township, Pennsylvania (III, 11-12-77) (EO 11246—Washington Imposed Plan) (Gerengross Corp.)

*Evaluation of Bids* (but see, *Responsibility*; *Responsiveness*; *Formal Advertising*; *Negotiation*; *Mistake*; *Rejection of All Bids*; *Award-Prime Contracts*).

#### (A) General Concepts:

1. Denver (City), Colorado (VIII, 4-22-74) (Pinkard Donovan)

2. Davenport, Iowa (VII, 4-11-75) (Lametti & Sons)
3. Fresno, California (IX, 7-10-75) (Dorfman Construction Co.)
4. Gainesville-Alachua \* \* \* Board, Florida (IV, 7-10-75) (Grumman Ecosystems)
5. Palmer Lake, Colorado (VIII, 1-16-76) (Dugan Construction Co.)
6. Huntington, West Virginia (III, 4-9-76) (National Engineering and Contracting Co.; and Envirotech Corp.)
7. Cleveland-Regional Sewer District (Westerly Plant), Ohio (V, 5-13-76) (Blount Brothers)
8. Bergen County, New Jersey (II, 9-28-76) (Wm. L. Crow-Wolff & Munier, Joint Venture)
9. Concord, North Carolina (IV, 10-8-76) (Mercury Construction Co.)
10. Superior, Wisconsin (V, 12-1-76) (Acton Construction Co., Inc.)
11. Puerto Rico Aqueduct and Sewer Authority (II, 3-31-77) (Blythe Industries Inc.)
12. Sussex, Wisconsin (V, 4-14-77) (Fischer & Porter)
13. Montgomery, Alabama (IV, 5-11-77) (Envirotech)
14. St. Paul (Metropolitan Waste Control Commission), Minnesota (V, 5-24-77) (Eimco-BSP Services Co.)
15. Middlesex (Sayreville Relief Pump Station), New Jersey (II, 6-9-77) (Terminal Construction Co.)
16. Ft. Lauderdale, Florida (IV, 7-18-77) (Inman Incorporated)
17. Norwalk, Connecticut (I, 7-22-77) (Primiano Construction Co.)
18. Cheektowaga, New York (II, 8-31-77) (Amadori Construction Co.)
19. McFarland, California (IX, 9-29-77) (Lagoon Aeration Corp.)
20. Brick Township, New Jersey (II, 11-22-77) (P. & A. Construction Co.)
21. Ramsey, New Jersey (II, 12-2-77) (P. & A. Construction Co.)
22. Corvallis, Oregon (X, 12-6-77) (Frank Coluccio Construction Co.)

(B) O. & M. Costs (evaluation of):

1. Omaha, Nebraska (VII, 9-14-74) (Datamaster Division—ACCO)
2. Englewood & Littleton, Colorado (VIII, 2-10-75) (Air Products and Chemicals Inc.)
3. Ruston, Louisiana (VI, 3-18-76) (Allan J. Harris Co.)
4. Sacramento, California (IX, 10-6-76) (Air Products and Chemicals Inc.)
5. Pasadena, Texas (VI, 4-1-77) (also base bid) (Union Carbide Corp.)
6. McFarland, California (IX, 9-29-77) (Lagoon Aeration Corp.)

*Finality of Administrative Determinations* (§ 35.939(e)(3)) (but see *Reconsideration of Administrative Determinations*).

*Formal Advertising* (§ 35.938-4) (see also, *Choice of Law—Fundamental Federal Procurement Principles*; but see, *Mistake; Evaluation of Bids*).

1. Grand Forks, North Dakota (VIII, 8-15-74) (Konline-Sanderson)
2. Henry, South Dakota (VIII, 9-15-75) (in-state) (Henningsen Construction Co.)
3. South Portland, Maine (I, 10-7-75) (Pizzagalli Construction Co.)
4. Washington Suburban Sanitary Commission, Maryland (III, 10-15-75) (notice of state court case) (Volpe Construction Co.; and John C. Grimborg)
5. Monroe, Washington (X, 12-31-75) (Will Construction Co.)
6. St. Joseph, Missouri (VII, 2-20-76) (Addenda issuance) (Turzillo Contracting Co.)
7. Huntington, West Virginia (III, 4-9-76) (National Engineering and Contracting Co.; and Envirotech Corp.)
8. Phoenix, New York (II, 5-7-76) (Vincent J. Fasano)
9. Deposit, New York (II, 10-5-76) (reprocurement) (Albin Construction Corp.)
- \*10. St. Paul (Metropolitan Waste Control Commission), Minnesota (V, 12-3-76) (Kvalsten Electric)
11. Puerto Rico Aqueduct & Sewer Authority, (II, 3-31-77) (Blythe Industries Inc.)
12. Lynden, Washington (X, 5-16-77) (Arcomm Construction Co.)
- \*13. Bradford, Vermont (I, 6-6-77) (Carvel Co.)
14. Middlesex (Sayreville Relief Pump Station), New Jersey, (II, 6-9-77) (Terminal Construction Co.)
15. Parsippany-Troy Hills, New Jersey (II, 7-8-77) (Frank Briscoe)
16. Loxahatchee River Environmental Control District, Florida (IV, 11-3-77) (reprocurement) (Guy Villa & Sons)
17. Rawlins, Wyoming (VIII, 11-16-77) (Wind River Constructors Inc.)
18. Brick Township, New Jersey (II, 11-22-77) (P. & A. Construction Co.)

*Grantee Responsibilities* (§§ 30.210 and 35.936-5).

1. Sussex, Wisconsin (V, 4-14-77) (Fisher & Porter)
  2. Bradford, Vermont (I, 6-6-77) (Carvel Co.)
  3. Parsippany-Troy Hills, New Jersey (II, 7-8-77) (Frank Briscoe)
- Jurisdiction* (§ 35.939(j)) (but see, *System Design; A/E Procurement; Choice of Law—State Law; Subcontracts; Choice of Law—Federal Procurement Law*).
1. District of Columbia (Blue Plains) (III, 2-20-75) (§ 35.939(j)(5)) (Kenics Corp.)
  2. Rhinelander, Wisconsin (V, 3-31-76) (subcontractor selection) (EPCC—Hormel)
  3. Lowell, Massachusetts (I, 4-1-76) (§ 35.939(j)(3)) (United Electrical Contractors)
  4. Lowell, Massachusetts (I, 4-2-76) (§ 35.939(j)(3)) (Honeywell Corp.)
  5. Danville, Illinois (V, 4-15-76) (Honeywell Corp.)

6. Haverstraw, New York (II, 6-24-76) (Fletcher Creamer & Sons)
- \*7. Amherst, New York (II, 7-2-76) (Air Products & Chemicals, Inc.)
8. Denver (City & County), Colorado (VIII, 7-9-76) (Frank Briscoe)
9. McKinleyville Community Sanitary District (Humboldt County), California (IX, 8-13-76) (McGuire and Hester)
10. San Mateo, California (IX, 8-17-76) (§ 35.939 (j)(1) and (j)(3)) (Elmer Freethy)
11. Bridgeport, Connecticut (I, 11-22-76) (Connecticut Engineers in Private Practice)
12. Oxnard, California (IX, 12-1-76) (§ 35.939(j)(5)) (BBR Prestressed Tanks)
13. York, Pennsylvania (III, 4-22-77) (Union Carbide Corp.)
14. Omo, Wisconsin (V, 5-13-77) (§ 35.939(j)(6)) (Can-Tex)
- \*15. Oklahoma City, Oklahoma (VI, 5-18-77) (grantee involvement; by or for) (Ingersoll-Rand D)
16. Middlesex (Bound Brook Pump Station), New Jersey (II, 6-3-77) (Campanella Construction Co.)
17. Middlesex (Sayreville Relief Pump Station), New Jersey (II, 6-9-77) (Terminal Construction Co.)
18. San Francisco, California (IX, 6-20-77) (A/E; and § 35.939(j)(3)) (McKee-Berger-Mansueto Inc.)
19. Sonoma, California (IX, 6-30-77) (§ 35.939(j)(3)) (P. C. Jensen)
20. Newton, North Carolina (IV, 7-17-77) (project grant ineligible) (Carolina Concrete Pipe)
- \*21. Oklahoma City, Oklahoma (VI, 7-25-77) (grantee involvement; by or for) (Carborundum)
22. Cumming, Georgia (IV, 9-28-77) (Newkirk Construction Co.)
- \*23. McFarland, California (IX, 9-29-77) (grantee involvement; by or for) (Lagoon Aeration Corp.)
24. Orange County, California (IX, 11-2-77) (§ 35.939(j)(5)) (Pentech Division of Houdaille Industries)
25. Loxahatchee River Environmental Control District, Florida (IV, 11-3-77) (Guy Villa & Sons)
26. Amherst, New York (II, 11-22-77) (Smith & Associates)
27. Bridgewater, New Jersey (II, 12-2-77) (Lombardo Contracting Co.)
28. Monterey Peninsula Water Pollution Control Agency, California (IX, 12-9-77) (J. M. Bush)

*Minority Business Enterprises* (§ 35.936-7) (but see *Equal Employment Opportunity*).

*Mistake*

1. Denver (City), Colorado (VIII, 4-22-74) (Pinkard Donovan)
2. Omaha, Nebraska (VII, 9-14-74) (offensive use) (Datamaster Div.—ACCO)
3. Davenport, Iowa (VII, 4-11-75) (Lametti & Sons)
4. Fresno, California (IX, 7-10-75) (Dorfman Construction Co.)

5. Clark County (Las Vegas), Sanitary District (No. 1), Nevada (IX, 12-24-75) (Bovee & Crail Construction Co.)

6. Bergen County, New Jersey (II, 9-28-76) (Wm. L. Crow-Wolff & Munier, Joint Venture)

7. Bradford, Vermont (I, 3-4-77) (Cummings)

8. Puerto Rico Aqueduct & Sewer Authority (II, 3-31-77) (Blythe Industries Inc.)

\*9. Middlesex (Bound Brook Pump Station), New Jersey (II, 6-3-77) (Campanella Construction Co.)

10. Middlesex (Sayreville Relief Pump Station), New Jersey (II, 6-9-77) (Terminal Construction Co.)

11. Corvallis, Oregon (X, 12-6-77) (Frank Coluccio Construction Co.)

*Negotiated Procurement* (§§ 35.936-18 and 35.937-5).

\*1. Spokane, Washington (X, 1-9-76) (BBR Prestressed Tanks)

2. Berkeley-Charleston-Dorchester, South Carolina (IV, 7-19-76) (§ 208 grant) (Davis & Floyd Engineers, Inc.)

3. Rhode Island Statewide Planning Program (I, 4-26-77) (§ 208 grant) (C. E. McGuire Inc.)

4. Bradford, Vermont (I, 6-6-77) (Carvel Co.)

*Non-Restrictive Specifications* (§ 35.936-13) (but see, *Sole Source Specifications; Experience Requirements; Specifications; see also, Engineering Judgment*).

1. Shreveport, Louisiana (VI, 6-1-74) (pipe liner) (Mainstay Corp.)

2. Hudson, Wyoming (VIII, 8-1-74) (Environmental Equipment Inc.)

3. Grand Forks, North Dakota (VIII, 8-15-74) (Komline-Sanderson)

\*4. Lake Charles, Louisiana (VI, 12-15-74) (Flygt Co.)

5. District of Columbia (Blue Plains) (III, 2-20-75) (Kenics Corp.)

6. Tonawanda, New York (II, 8-1-75) (Ingersoll-Rand)

7. Butler County (LeSourdsville Project), Ohio (V, 1-7-76) (grantee pre-approval) (EPCO-Hormel)

8. Fredonia, New York (II, 4-15-76) (Tenco Hydro/Aerosciences)

\*9. Chatham County (Isle of Hope), Georgia (IV, 7-8-76) (pipe) (Kyle-Gifford-Hill Inc.)

10. Sioux City, Iowa (VII, 3-12-76) (U.S. Enviro-Con)

11. Sacramento, California (IX, 8-12-76) (BBR Prestressed Tanks Inc.)

12. Sacramento, California (IX, 9-13-76) (Amoco Reinforced Plastics)

13. North Shore Sanitary District, Illinois (V, 9-28-76) (Keene Corp.; and Premier Electrical Construction Co.)

\*14. Greenwood (Rocky-Coronaca), South Carolina (IV, 10-6-76) (pipe; clay v. concrete) (Metromount Materials; Carolina Concrete Pipe Co.; Wallace Concrete Pipe Co., Inc.; South Carolina Pipe Association; Amoco Reinforced Plastics Co.)

15. Sacramento, California (IX, 10-6-76) (Air Products & Chemicals Inc. II)

16. Palm Beach County, Florida (IV, 10-8-76) (pipe; sole source) (Price Brothers)

17. Baton Rouge, Louisiana (VI, 11-5-76) (National Hydro-System)

18. Cleveland Regional Sewer District (Southerly Plant) (V, 11-15-76) (Powercon Corp.)

19. Superior, Wisconsin (V, 12-1-76) (Acton Construction Co. Inc.)

20. Waterford, Connecticut (I, 12-28-76) (New Ikor I)

21. Fredonia, New York (II, 2-28-77) (National Hydro Systems)

22. Waterford, Connecticut (I, 3-9-77) (Loc Pump & Equipment Co.)

23. Dothan, Alabama (IV, 3-10-77) (shop drawing evaluation) (Infilco-Degremont)

24. Sioux City, Iowa (VII, 3-17-77) (Ralph B. Carter Inc.; and U.S. Enviro-Con Inc.)

25. Pasadena, Texas (VI, 4-1-77) (Union Carbide Corp.)

26. Delano, California (IX, 4-8-77) (pipe) (Hydro Conduit Corp. and Cen-Vi-Ro Concrete Pipe & Products Co., Inc.)

27. Fairfax, Virginia (III, 4-14-77) (Concrete Pipe & Products Inc.)

28. Montgomery, Alabama (IV, 5-11-77) (Envirotech)

29. Marion, North Carolina (IV, 5-17-77) (pipe) (Carolina Concrete Pipe Co.)

30. Oklahoma City, Oklahoma (VI, 5-18-77) (Ingersoll-Rand I)

31. Miami-Dade Water and Sewer Authority, Florida (IV, 5-25-77) (grantee approval) (Morganti South-Wolff Munier (Joint Venture); and Intercounty Construction Corp.)

32. Bernice, Louisiana (VI, 6-1-77) (National Hydro Systems)

33. Watertown, New York (II, 7-5-77) ("or equal," grantee review) (Vincent J. Fasano)

34. Oklahoma City, Oklahoma (VI, 7-13-77) (Ingersoll-Rand II)

35. Norwalk, Connecticut (I, 7-22-77) (Primiano Construction Co.)

36. Cynthia, Kentucky (pre-selection) (IV, 8-11-77) (Lyco-ZF)

37. Jackson, Mississippi (IV, 8-19-77) (pipe) (American Cast Iron Pipe Co.)

38. Hope, Arkansas (VI, 9-1-77) (Hydro Conduit; Choctaw Culvert (Div. of Choctaw Inc.); Jonesboro Concrete Pipe Co.)

39. Toms Brook-Maurertown, Virginia (III, 9-20-77) (pre-selection) (National Hydro Systems)

40. Cranberry Township, Pennsylvania (III, 10-20-77) (pre-selection) (Bay-Con Corp.)

41. Contra Costa County, California (IX, 10-25-77) (pipe) (Armco Steel)

42. Orange County, California (IX, 11-2-77) (Pentech Division of Houdaille Industries)

43. Kansas City, Kansas (VII, 11-17-77) (experience) (Nichols Engineering & Research Corp.; and Zimpro)

44. Amherst, New York (II, 11-22-77) (Smith & Associates)

*Patents* (§ 30.500).

*Procedure* (§ 35.939(f)) (See also, *Standing; Time Limitations; Jurisdiction; Summary Dispositions; Burden of Proof; Review—Regional Administrator Authority*).

1. Shreveport, Louisiana (VI, 6-1-74) (Section 8 grant) (Mainstay Corp.)

2. Jacksonville, Florida (IV, 8-12-74) (protest pre-regulation) (Adrian Construction Co.)

3. Haverstraw, New York (II, 6-24-76) (Fletcher Creamer & Sons)

4. Chatham County (Isle of Hope), Georgia (IV, 7-8-76) (pre-bid protest resolution) (Kyle-Gifford-Hill Inc.)

5. Denver (City and County), Colorado (VIII, 7-9-76) (Frank Briscoe)

6. Cayce, South Carolina (IV, 7-18-76) (Southeastern Concrete Products Co.)

7. Berkeley-Charleston-Dorchester, South Carolina (IV, 7-19-76) (§ 208 grant) (Davis & Floyd Engineers Inc.)

8. Boynton Beach/Delray Beach Florida (IV, 10-14-76) (oral protest) (Ecological Services Products Inc.)

9. Lynn, Massachusetts (I, 10-21-76) (pre-grant award) (Clinton Bogert Associates)

10. Detroit, Michigan (V, 11-10-76) (Lotepro Corp.)

11. Waterford, Connecticut (I, 3-9-77) (Loc Pump and Equipment)

\*12. Dothan, Alabama (IV, 3-10-77) (full Regional Administrator review in place of Grantee) (Infilco Degremont)

13. York, Pennsylvania (III, 4-22-77) (Union Carbide Corp.)

14. Atlanta, Georgia (IV, 5-11-77) (Mayer & Associates)

15. Bernice, Louisiana (VI, 6-1-77) (simultaneous mailing issue)

16. Cynthia, Kentucky (IV, 8-11-77) (Lyco-ZF)

\*17. Lower Salford Township, Pennsylvania (III, 9-8-77) (Gorngross Corp.)

18. Cumming, Georgia (IV, 9-28-77) (Newkirk Construction Co.)

19. Cranberry Township, Pennsylvania (III, 10-20-77) (Bay-Con Corp.)

20. Contra Costa County, California (IX, 10-25-77) (Armco Steel)

21. Orange County, California (IX, 11-2-77) (Pentech Division of Houdaille Industries)

22. Amherst, New York (II, 11-22-77) (Smith & Associates)

23. Bridgewater, New Jersey (II, 12-2-77) (Lombardo Contracting Co.)

24. Corvallis, Oregon (X, 12-6-77) (pre-grant approval) (Frank Coluccio Construction Co.)

*Program Integrity* (§ 30.245).

\*1. Daytona Beach, Florida (IV, 6-21-77) (Hydro-Clear Corp.)

*Rational Basis Test.*

1. Hannibal, Missouri (VII, 2-15-74) (Sammons Construction Co.)



2. Omaha, Nebraska (VII, 9-14-74) (Datamaster Div.—ACCO)  
 3. Gainesville-Alachua \* \* \* Board, Florida (IV, 7-10-75) (Grumman Eco-systems Corp.)

4. Miami-Dade Water and Sewer Authority, Florida (IV, 3-11-76) (George Hyman Construction Co.)

5. Ruston, Louisiana (VI, 3-18-76) (Allan H. Harris Co.)

6. Lowell, Massachusetts (I, 4-1-76) (United Electrical Contractors)

7. Lowell, Massachusetts (I, 4-2-76—(Honeywell Corp.)

8. Phoenix, New York (II, 5-7-76) (Vincent J. Fasano)

9. Chatham County (Isle of Hope), Georgia (IV, 7-8-76) (Kyle-Gifford-Hill Inc.)

10. Berkeley-Charleston-Dorchester, South Carolina (IV, 7-19-76) (§ 208 grant) (Davis & Floyd Engineers Inc.)

11. Sacramento, California (IX, 8-12-76) (BBR Prestressed Tanks)

12. Miami-Dade Water & Sewer Authority, Florida (IV, 9-27-76) (Altman-Myers Construction Co.)

\*13. Concord, North Carolina (IV, 10-8-76) (Mercury Construction Co.)

14. Philadelphia, Pennsylvania (Northeast Plant) (III, 12-6-76) (Sovereign Construction Company)

15. Bradford, Vermont (I, 3-4-77) (Cummings)

\*16. Dothan, Alabama (IV, 3-10-77) (Infilco Degremont)

17. Pasadena, Texas (VI, 4-1-77) (Union Carbide Corp.)

18. Sussex, Wisconsin (V, 4-14-77) (Fischer & Porter)

19. Rhode Island Statewide Planning Program (I, 4-26-77) (§ 208 grant) (C. E. Maguire Inc. II)

20. Montgomery, Alabama (IV, 5-11-77) (Envirotech)

21. Lynden, Washington (X, 5-16-77) (Arcomm Construction Co.)

22. Ceres, California (IX, 6-20-77) (W. M. Lyles Co.)

23. Ft. Lauderdale, Florida (IV, 7-18-77) (Inman Inc.)

24. Cynthiana, Kentucky (IV, 8-11-77) (Lyco-ZF)

25. Jackson, Mississippi (IV, 8-19-77) (American Cast Iron Pipe Co.)

26. McFarland, California (IX, 9-29-77) (Lagoon Aeration Corp.)

*Reconsideration of Administrative Determinations (but see, Finality of Administrative Determinations).*

1. Detroit, Michigan (V, 11-23-76) (denied) (Lotepro Corp.)

2. North Shore Sanitary District, Illinois (V, 2-27-77) (denied) (Biospherics Inc.)

3. Delano, California (IX, 4-15-77) (denied) (California Vitrified Clay Pipe Manufacturers)

\*4. Ft. Lauderdale, Florida (IV, 9-1-77) (denied) (Vito's Trucking & Excavating Co.)

5. Jackson, Mississippi (IV, 10-25-77) (denied) (American Cast Iron Pipe Co.)

*Rejection of All Bids (§ 35.938-4(h)(2), and see, PRM 78-8 published at 43 FR 14725-26, April 7, 1978) (also see, Enforcement).*

1. Philadelphia, Pennsylvania (Southwest Plant) (III, 2-28-75) (EEO) (Air Products & Chemicals Inc.; and Remsco Assoc.)

\*2. Henry, South Dakota (VIII, 9-15-75) (cogent and compelling reason standard) (Henningsen Construction Co.)

3. Cleveland Regional Sewer District (Westerly Plant), Ohio (V, 11-3-75) (Blount Brothers; and Darin & Armstrong)

\*4. Miami-Dade Water and Sewer Authority, Florida (IV, 3-11-76) (rational basis standard) (George Hyman Construction Co.)

5. Chicago (Metropolitan Sanitary District of Greater Chicago), Illinois (V, 3-23-76) (above Engineer's estimate) (Blount Brothers)

6. DePere, Wisconsin (V, 5-17-76) (Holiday Court Co.)

7. Berrien County, Michigan (V, 6-15-76) (above Engineer's estimate) (J. P. Reilly)

8. Bergen County, New Jersey (II, 9-28-76) (EPA directed) (Wm. L. Crow-Wolff & Munier, Joint Venture)

9. Philadelphia, Pennsylvania (Northeast Plant) (III, 12-6-76) (EPA concurrence function; unbalanced bid, denial) (Sovereign Construction Co.)

10. Bradford, Vermont (I, 3-4-77) (Cummings)

11. Puerto Rico Aqueduct and Sewer Authority (II, 3-31-77) (EPA directed) (Blythe Industries Inc.)

12. Norwalk, Connecticut (I, 7-22-77) (EPA concurrence function; initial denial; grantee option) (Primlano Construction)

13. Bridgewater, New Jersey (II, 12-2-77) (unbalanced bid) (Lombardo Contracting Co.)

14. Corvallis, Oregon (X, 12-6-77) (EPA directed) (Frank Coluccio Construction Co.)

*Responsibility (§§ 35.936-15, 30.340-2).*

*(A) General:*

\*1. Hannibal, Missouri (VII, 2-15-74) (procedural requirements) (Sammons Construction)

\*2. Hollywood, Florida (IV, 3-13-74) (parent-subsidiary relationship) (Morganti-South, Inc.)

3. Lexington, Virginia (III, 8-14-74) (of equipment supplier; standards) (Hydro-Systems, Inc.)

\*4. Upper Occoquan Sewer Authority (Manassas Park), Virginia (III, 11-13-75) (descriptive literature; vs. responsibility) (John C. Grimberg Co., Inc.)

\*5. Phoenix, New York (II, 5-7-76) (grantee burden of proof) (Vincent J. Fasano, Inc.)

6. Round Hill, Virginia (III, 5-13-76) (subcontract information; past practices) (Frank L. Black, Jr., Inc.)

\*7. Upper Occoquan Sewer Authority (Manassas Park), Virginia (III, 6-24-76) (subcontractor listing requirement; vs. responsibility) (Savoy Construction Co.)

8. Kansas City, Kansas (VII, 11-17-77) (applicable standards to subcontract award) (Nichols Engineering & Research; and Zimpro Inc.)

9. Pepperell, Massachusetts (I, 11-22-77) (grantee judgment; past practices) (Catamount Corp.)

*(B) Licensing:*

\*1. Jacksonville, Florida (IV, 8-12-74) (State construction industry board license) (Adrian Construction Co.)

\*2. Tahoe-Truckee Sanitation Agency, California (IX, 8-21-75) (State landscaping license) (Jos. Ramos and Contri-Hood)

*Responsiveness (See also Equal Employment Opportunity; Waiver).*

\*1. Hollywood, Florida (IV, 3-13-74) (equipment listing) (Morganti-South, Inc.)

2. Denver (City), Colorado (VIII, 4-22-74) (Pinkard Donovan)

3. Jacksonville, Florida (IV, 8-12-74) (State construction industry board license) (Adrian Construction Co.)

4. Manitowoc, Wisconsin (V, 12-18-74) (Absence of bid bond) (P. A. Lawrence Co.)

5. Philadelphia, Pennsylvania (Southwest Plant) (III, 2-28-75) (EO 11246—Philadelphia Plan compliance) (Air Products & Chemicals, Inc. and Remsco)

6. Clearwater, Florida (IV, 3-14-75) (subcontractor listing) (Harry Pepper & Associates)

7. Alexandria, Virginia (III, 4-4-75) (exclusion of State sales taxes) (John C. Grimberg Inc.)

8. Woonsocket, Rhode Island (I, 6-20-75) (EO 11246—Certificate of prior work; vs. responsibility) (Westcott Construction Co.)

9. Gainesville-Alachua \* \* \* Board, Florida (IV, 7-10-75) (ambiguous specification; bid notation) (Grumman Eco-systems)

10. Tahoe-Truckee Sanitation Agency, California (IX, 8-21-75) (license; vs. responsibility) (Jos. Ramos and Contri-Hood)

11. Williston Township, Pennsylvania (III, 9-26-75) (EO 11246—Philadelphia Imposed Plan) (Tioga Electric Shop)

12. South Portland, Maine (I, 10-7-75) (equipment pump-performance data) (Pizzagalli Construction Co.)

13. Washington Suburban Sanitary Commission, Maryland (III, 10-15-75) (subcontractor listing) (Volpe Construction Co., and John C. Grimberg)

14. Calhoun County, Michigan (V, 11-13-75) (unit pricing) (North Construction Co.)

\*15. Upper Occoquan Sewer Authority (Manassas Park), Virginia (III, 11-13-75) (descriptive literature; vs. responsibility)



\*16. Winter Haven, Florida (IV, 11-26-75) (prime contractor work identification; subcontractor listing) (Griffin Construction Co.)

17. Washington Suburban Sanitary Commission, Maryland (III, 12-4-75) (EO 11246—Washington Imposed Plan compliance; trade applicability "de minimis" theory) (Fattore Construction Co.)

\*18. Monroe, Washington (X, 12-31-75) (Two bites theory; bid exception) (Will Construction Co.)

19. Ruston, Louisiana (VI, 3-18-76) (price escalation in bid) (Allan H. Harris & Co.)

20. Chicago (Metropolitan Sanitary District of Greater Chicago), Illinois (V, 3-23-76) (exception to specifications; qualified bid) (Blount Brothers)

\*21. Westerville, Ohio (V, 4-2-76) (EEO, EPA regulations at 40 CFR § 8.8) (Davis-McKee and G. Igel)

22. Sioux City, Iowa (VII, 7-12-76) (listing of approved equipment supplier; grantee pre-contract judgment) (U.S. Enviro-Con)

23. Occoquan-Woodbridge (Potomac Plant), Virginia (III, 11-12-76) (EO 11246—Washington Plan compliance) (Briscoe/Courter/Conduit—Joint Venture)

24. St. Paul (Metropolitan Waste Control Commission), Minnesota (V, 12-3-76) (acknowledgement of addenda) (Kvalsten Electric)

25. Gregory, South Dakota (VIII, 1-4-77) (Schweigert Construction Co.)

26. Washington Suburban Sanitary Commission, Maryland (III, 3-2-77) (EO 11246—Washington Imposed Plan compliance; no covered trade) (C. F. & B. and State Construction Corp.—Joint Venture)

27. Ceres, California (IX, 6-20-77) (subcontractor listing) (W. M. Lyles Co.)

28. Ft. Lauderdale, Florida (IV, 7-18-77) (price omission) (Inman Inc.)

29. Huntington, Massachusetts (I, 8-29-77) (EO 11246—Certificate) (Warner Brothers)

30. Lower Salford, Pennsylvania (III, 9-8-77) (EO 11246—Washington Imposed Plan application by project amount) (Gerngross Corp.)

*Review—Regional Administrator Authority (See also Procedure; but see Sua Sponte Review).*

1. Englewood and Littleton, Colorado (VIII, 2-10-75) (Air Products & Chemicals Inc.)

\*2. Fresno, California (IX, 7-10-75) (Dorfman Construction Co.)

3. Cleveland Regional Sewer District, (Westerly Plant) Ohio (V, 11-3-75) (Blount Brothers; Darin and Armstrong)

4. Haverstraw, New York (II, 6-24-76) (Fletcher Creamer & Son)

5. Lynn, Massachusetts (I, 10-21-76) (Clinton Bogert Assoc.)

6. Detroit, Michigan (V, 11-10-76) (Lotepro Corp.)

7. Waterford, Connecticut (I, 3-4-77) (Loc Pump & Equipment)

\*8. Dothan, Alabama (IV, 3-10-77) (inflico Degremont)

9. York, Pennsylvania (III, 4-22-77) (Union Carbide Corp.)

10. Atlanta, Georgia (IV, 5-11-77) (Mayer and Associates)

11. St. Paul (Metropolitan Waste Control Commission), Minnesota (V, 5-24-77) (Eimco-BSP Services)

12. Cynthiana, Kentucky (IV, 8-11-77) (Lyco-ZF)

13. Jackson, Mississippi (IV, 8-19-77) (American Cast Iron Pipe Co.)

14. Lower Salford, Pennsylvania (III, 9-8-77) (Gerngross Corp.)

15. Cumming, Georgia (IV, 9-28-77) (Newkirk Construction Co.)

16. Cranberry Township, Pennsylvania (III, 9-30-77) (Bay-Con Corp.)

*Small Business—Procurement of (\$35,936-7).*

\*1. Cleveland Regional Sewer District, (Southerly Plant) Ohio (V, 11-15-76) (Powercon Corp.)

2. Bernice, Louisiana (VI, 6-1-77) (National Hydro Systems)

*Sole Source Procurement (\$35,936-13(b)).*

1. Lake Charles, Louisiana (VI, 12-15-74) (Flygt Corp.)

2. Tonawanda, New York (II, 8-1-75) (Ingersoll-Rand)

3. Palm Beach County, Florida (IV, 10-8-76) (pipe) (Price Brothers)

4. Cranberry Township, Pennsylvania (III, 9-30-77) (Bay-Con Corp.)

*Specifications (but see Non-Restrictive Specifications; see also, Engineering Judgments).*

1. Omaha, Nebraska (VII, 9-14-74) (unbalanced bid) (Datamaster Div.—ACCO)

2. Gainesville-Alachua \* \* \* Board, Florida (IV, 7-10-75) (ambiguity; bid notation; addenda) (Grumman Ecosystems)

3. Washington Suburban Sanitary Commission, Maryland (III, 10-15-75) (Volpe Construction Co., and John C. Grimberg Inc.)

4. Westchester County, New York (II, 9-7-76) (minimum needs; competition) (Union Carbide Corp.)

5. Bergen County, New Jersey (II, 9-28-76) (words-numbers reconciliation) (Wm. L. Crow Construction Co.-Wolff & Munier, Inc.—Joint Venture)

\*6. North Shore Sanitary District, Illinois (V, 9-28-76) (salient performance characteristics) (Keene Corp.; and Premier Electrical Construction Co.)

7. Philadelphia, Pennsylvania (Northeast Plant) (III, 12-6-76) (unbalanced bid) (Sovereign Construction Co.)

*Standing.*

1. Westchester County, New York (II, 3-3-76) (trade association) (General Building Contractors)

2. Baton Rouge, Louisiana (VI, 11-5-76) (National Hydro Systems, Inc.)

3. Bridgeport, Connecticut (I, 11-22-76) (interested parties-associations) (Connecticut Engineers in Private Practice)

4. Rhode Island Statewide Planning Program (§208 grant) (I, 3-4-77) (non-offeror to RFP) (C. E. Maguire, Inc.)

\*5. York, Pennsylvania (III, 4-22-77) (subcontractor protest of prime award issue) (Union Carbide Corp.)

6. Montgomery, Alabama (IV, 5-11-77) (subcontractor - non - restrictive specifications) (Envirotech Corp.)

7. Daytona Beach, Florida (IV, 6-21-77) (subcontractor protest of prime award; accord York, Pa.) (Hydro-Clear Corp.)

\*8. Norwalk, Connecticut (I, 7-22-77) (no valid bid due to price increase on bid extension) (Primiano Construction Co.)

9. McFarland, California (IX, 9-29-77) (subcontractor protest of engineering evaluation; vs. grantee involvement rule) (Lagoon Aeration Corp.)

10. Contra Costa County, California (IX, 10-25-77) (Armco Steel)

11. Loxahatchee River Environmental Control District, Georgia (IV, 11-3-77) (contract disputes; reprourement) (Guy Villa & Sons)

12. Brick Township, New Jersey (II, 11-22-77) (P. & A. Construction Inc.)

13. Monterey Peninsula Water Pollution Control Agency, California (IX, 12-9-77) (J. M. Bush)

14. Passaic Valley Sewerage Commissioners, Newark, New Jersey (II, 12-10-77) (Restrictive Specifications—Experience) (BSP Division of Envirotech Corp.)

*Sua Sponte Review (§§35,935-2 and 35,939(f)(6) (see also, Review—Regional Administrator Authority).*

\*1. Bergen County, New Jersey (II, 9-28-76) (State law; competition) (Wm. L. Crow Construction Co.-Wolff & Munier Inc.—Joint Venture)

2. Norwalk, Connecticut (I, 11-16-76) (Regional Administrator remedy notwithstanding protest dismissal) (Brunalli Construction Co.)

3. Waterford, Connecticut (I, 3-4-77) (continuing Regional Administrator review notwithstanding protest dismissal-timeliness) (New Ikor II)

\*4. Sussex, Wisconsin (V, 4-14-77) (grantee involvement; delegation to agent) (Fischer & Porter)

\*5. York, Pennsylvania (III, 4-22-77) (policy/regulation review) (Union Carbide Corp.)

6. Parsippany-Troy Hills, New Jersey (II, 7-8-77) (Frank Briscoe Co.)

\*7. McFarland, California (IX, 9-28-77) (grantee procurement rule) (Lagoon Aeration Corp.)

\*8. Loxahatchee River Environmental Control District, Georgia (IV, 11-3-77) (contract dispute; reprourement) (Guy Villa & Sons, Inc.)

9. Brick Township, New Jersey (II, 11-22-77) (bid expiration, bidder ineligibility) (P. & A. Construction Co.)

\*10. Bridgewater, New Jersey (II, 12-2-77) (mootness; State law) (Lombardo Contracting Co.)

11. Ramsey, New Jersey (II, 12-2-77) (timeliness) (P. & A. Construction Co.)

12. Corvallis, Oregon (X, 12-6-77) (Frank Coluccio Construction Co.)

13. Passaic Valley Sewerage Commissioners, Newark, New Jersey (II, 12-10-77) (EPA regulatory-policy review) (BSP Division of Envirotech Corp.)

*Subcontracts, Award of* (§§ 35.938-9, and 35.939(j)(6)).

1. Hollywood, Florida (IV, 3-13-74) (equipment manufacturer listing) (Morganti-South Inc.)

2. Jacksonville, Florida (IV, 8-12-74) (Subcontractor listing) (Adrian Construction Co.)

3. Lexington, Virginia (III, 8-14-74) (performance bond) (Hydro-Systems, Inc.)

\*4. Grand Forks, North Dakota (VIII, 8-15-74) (Restrictive Specification; award to prime with low equipment offer) (Komline-Sanderson)

5. Omaha, Nebraska (VII, 9-14-74) (Datamaster Division—ACCO)

\*6. Clearwater, Florida (IV, 3-14-75) (equipment suppliers listing) (Harry Pepper & Associates)

7. Tonawanda, New York (II, 8-1-75) (Restrictive Specifications—sole source) (Ingersoll-Rand)

\*8. Washington Suburban Sanitary Commission, Maryland (III, 10-15-75) (equipment supplier listing; State law) (Volpe Construction Co. and John C. Grimberg Co.)

9. Winter Haven, Florida (IV, 11-26-75) (subcontractor listing work amount) (Griffin Construction Co.)

10. St. Joseph, Missouri (VI, 2-20-76) (Turzillo Contracting Co.)

\*11. Miami-Dade Water and Sewer Authority, Florida (IV, 3-11-76) (equipment item listing; bid shopping) (George Hyman Construction Co.)

12. Rhinelander, Wisconsin (V, 3-31-76) (substitution; business judgment) (EPCO-Hormel)

13. Lowell, Massachusetts (I, 4-1-76) (State law issues; business judgment; substitution) (United Electrical Contractors)

14. Lowell, Massachusetts (I, 4-2-76) (State law issues; business judgment; substitution) (Honeywell Corp.)

15. Danville, Illinois (V, 4-15-76) (Honeywell Corp.)

\*16. Upper Occoquan Sewer Authority, Virginia (III, 6-24-76) (subcontractor listing; amount of work to be performed) (Savoy Construction Co.)

17. Amherst, New York (II, 7-2-76) (substitution of supplier during prime contract performance) (Air Products & Chemicals, Inc.)

18. Denver (City and County), Colorado (VIII, 7-9-76) (Frank Briscoe)

19. Sioux City, Iowa (VII, 7-12-76) (listing preapproved subcontractor) (U.S. Enviro-Con)

20. Westchester County, New York (II, 9-7-76) (competition among systems) (Union Carbide Corp.)

21. Sioux City, Iowa (VII, 3-17-77) (Restrictive Specifications; approved listing) (Ralph Carter and U.S. Enviro-Con)

22. Omro, Wisconsin (V, 5-13-77) (equipment substitution; business judgment) (Can-Tex Industries)

23. Oklahoma City, Oklahoma (VI, 5-18-77) (Restrictive Specifications; business judgment; grantee involvement; rational basis) (Ingersoll-Rand I)

24. Ceres, California (IX, 5-20-77) (equipment manufacturer listing) (W. M. Lyles Co.)

25. Watertown, New York (II, 7-5-77) (Vincent J. Fasano Inc.)

\*26. Oklahoma City, Oklahoma (VI, 7-13-77) (Restrictive Specifications; evident and presumed equality; need for rational basis on technical judgments; competition) (Ingersoll-Rand II)

\*27. Oklahoma City, Oklahoma (VI, 7-25-77) (Restrictive Specification; business judgment; grantee involvement) (Carborundum)

28. McFarland, California (IX, 9-28-77) (Engineering judgment vs. rational basis and grantee involvement) (Lagoon Aeration Corp.)

29. Kansas City, Kansas (VII, 11-17-77) (Experience of equipment supplier) (Nichols Engineering & Research; and Zimpro)

30. Amherst, New York (II, 11-22-77) (no technical review of "or equal" determination during prime contract performance) (E. C. Smith & Associates)

\*31. Monterey Peninsula Water Pollution Control Agency, California (IX, 12-9-77) (J. M. Bush)

32. Passaic Valley Sewerage Commissioners, Newark, New Jersey (II, 12-10-77) (experience requirements; competition) (BSP Division of Envirotech Corp.)

*Summary Disposition* (§35.939(k)).

1. Westchester County, New York (II, 3-3-76) (standing-trade association; state law; vagueness) (General Building Contractors)

2. Bridgewater, New Jersey (II, 3-31-76) (state procedures for A/E negotiations) (Havens & Emerson)

3. Rhinelander, Wisconsin (V, 3-31-76) (subcontractor issue limitation rule—substitution) (EPCO-Hormel)

4. Lowell, Massachusetts (I, 4-1-76) (state law—substitution) (United Electrical Contractors)

5. Lowell, Massachusetts (I, 4-2-76) (state law—substitution) (Honeywell Corp.)

6. Fredonia, New York (II, 4-15-76) (timeliness—subtier) (Tenco Hydro/Aerosciences)

7. Appleton, Wisconsin (V, 5-17-76) (choice of alternate system design) (Philadelphia Mixers Corp.)

8. Haverstraw, New York (II, 6-24-76) (state law) (Fletcher Creamer & Son)

\*9. Amherst, New York (II, 7-2-76) (supplier substitution) (Air Products & Chemicals Inc.)

10. Hancock, Michigan (V, 7-12-76) (timeliness) (Maclean Construction Co.)

11. Sacramento, California (IX, 8-12-76) ("or equal" technical challenge) (BBR Prestressed Tanks)

12. McKinleyville Community Services District (Humboldt County), California (IX, 8-13-76) (state law) (McGuire & Hester Co.)

\*13. Sacramento, California (IX, 9-13-76) (timeliness—restrictive specification challenge) (Amoco Reinforced Plastics)

14. Deposit, New York (II, 10-5-76) (timeliness—challenged procurement upon default of contractor) (Albin Construction Co.)

15. Boynton Beach/Delray Beach, Florida (IV, 10-14-76) (timeliness—subtier) (Ecological Services Products)

16. Concord, North Carolina (IV, 10-14-76) (timeliness—subtier) (Air Products & Chemicals Inc.)

17. Baton Rouge, Louisiana (IV, 11-5-76) (business judgment) (National Hydro Systems)

18. Detroit, Michigan (V, 11-10-76) (timeliness—subtier) (Lotepro Corp.)

19. Occoquan-Woodbridge (Potomac Plant), Virginia (III, 11-12-76) (EO 11246—Washington Imposed Plan—noncompliance) (Briscoe/Courter/Conduit—Joint Venture)

20. Danville, Illinois (V, 11-15-76) (Honeywell Corp.)

21. Norwalk, Connecticut (I, 11-16-76) (timeliness; but see sua sponte review) (Brunalli Construction Co.)

22. Oxnard, California (IX, 12-1-76) (design choice issue) (BBR Prestressed Tanks)

23. Gregory, South Dakota (VIII, 1-4-77) (bid informality) (Schweigert Construction Co.)

24. Fredonia, New York (II, 2-28-77) (timeliness—subtier; restrictive specification interpretation) (National Hydro Systems)

25. Rhode Island Statewide Planning Program (I, 3-4-77) (A/E procurement—standing—nonproposer) (C. E. Maguire)

\*26. Waterford, Connecticut (I, 3-4-77) (timeliness—"or equal" challenge) (New Ikor II)

\*27. York, Pennsylvania (III, 4-22-77) (standing; subcontract limitation issues) (Union Carbide Corp.)

28. Omro, Wisconsin (V, 5-13-77) (subcontract issue limitation rule) (Can-Tex)

29. Lynden, Washington (X, 5-16-77) (procedure—oral modification) (Arcomm Construction Co.)

\*30. Marion, North Carolina (IV, 5-17-77) (timeliness—subtier—admission against interest) (Carolina Concrete Pipe Co.)

31. Bernice, Louisiana (VI, 6-1-77) (timeliness—subtier, restrictive specification issue—performance curves) (National Hydro Systems)

32. Middlesex (Bound Brook Pump Station), New Jersey (II, 6-7-77) (choice of law—state law—mistake issue) (Campanella Construction Co.)

33. Middlesex (Sayreville Relief Pump Station), New Jersey (II, 6-9-77) (mistake—grantee intent) (Terminal Construction Co.)

34. Daytona Beach, Florida (VI, 6-14-77) (timeliness—subtier; grantee's mailing of determination) (Key Power Systems, Inc.)

35. San Francisco, California (IX, 6-20-77) (A/E procurement—time; choice of law—state law) (McKee-Berger-Mansueto)

36. Sonoma, California (IX, 6-30-77) (timeliness, choice of law—state law) (P. C. Jensen)

37. Newton, North Carolina (IV, 7-17-77) (project grant ineligible) (Carolina Concrete Pipe)

38. Cayce, South Carolina (IV, 7-18-77) (timeliness—subtier) (Southeastern Concrete)

\*39. Oklahoma City, Oklahoma (VI, 7-25-77) (subcontract issue limitation rule) (Carborundum)

40. Jackson, Mississippi (IV, 8-19-77) (restrictive specification—pipe; competition) (American Cast Iron Pipe Co.)

41. Huntington, Massachusetts (I, 8-29-77) (EEO—EO 11246 Certificate) (Warner Brothers)

42. Lower Salford, Pennsylvania (III, 9-8-77) (EEO—EO 11246 Washington Imposed Plan) (Gerngross Corp.)

43. Cumming, Georgia (IV, 9-28-77) (state law—compel issuance of payment and performance bond) (Newkirk Construction Co.)

44. Pepperell, Massachusetts (I, 11-22-77) (timeliness) (Catamount Construction Co.)

45. Bridgewater, New Jersey (II, 12-2-77) (moot—state appellate determination) (Lombardo Construction Co.)

46. Monterey Peninsula Water Pollution Control Agency, California (IX, 12-9-77) (subcontract limitation rule—standing) (J. M. Bush)

*System Design, Choice of* (§§ 35.917 and 35.939(j)(5)) (See also, *Engineering Judgment*).

1. Hudson, Wyoming (VIII, 8-1-74) (Environmental Equipment Co.)

\*2. District of Columbia (Blue Plains) (III, 2-20-75) (submerged turbine aerators vs. without turbines) (Kenics Corp.)

3. St. Joseph, Missouri (VII, 2-20-76) (specification amendment which deletes use of a performance method) (Turzillo Contracting Co.)

4. Appleton, Wisconsin (V, 5-17-76) (engineering judgment) (Philadelphia Mixers)

5. Sacramento, California (IX, 10-6-76) (specifying O. & M. factors—energy efficiency) (Air Products and Chemicals Inc.)

6. Oxnard, California (IX, 12-1-76) (specification for digester prestressing) (BBR Prestressed Tanks)

7. Orange County, California (IX, 11-2-77) (oxygen generation facilities vs. alternate system) (Pentech Division of Houdaille Industries).

*Time Limitations* (§ 35.939(b)).

1. Denver, (City) Colorado (VIII, 4-22-74) (waiver, reversed by new regulations) (Pinkard Donovan)

2. Hudson, Wyoming (VIII, 8-1-74) (Environmental Equipment)

3. Omaha, Nebraska (VII, 9-14-74) (Datamaster Div.—ACCO)

4. Henry, South Dakota (VIII, 9-15-75) (Henningsen)

5. Oregon, Ohio (V, 11-6-75) (timeliness as jurisdictional) (Ohio Control Systems)

6. Sunnyvale, California (IX, 12-5-75) (oral protest—revised by new regulations) (ABF Contractors)

7. Butler County (LeSourdsville Plant), Ohio (V, 1-7-76) (restrictive specifications—subtier—grantee finality rule) (EPCCO—Hormel)

\*8. Spokane, Washington (X, 1-9-76) (restrictive specifications—grantee finality rule) (BBR Prestressed Tanks)

9. Palmer Lake, Colorado (VIII, 1-16-76) (grantee finality rule) (Dugan Construction Co.)

10. Predonia, New York (II, 4-15-76) (Tenco Hydro-Aerosciences)

11. Denver (City and County), Colorado (VIII, 7-9-76) (Frank Briscoe)

12. Hancock, Michigan (V, 7-12-76) (grantee decision to use negotiated procurement) (Maclean Construction Co.)

\*13. Sacramento, California (IX, 9-9-76) (restrictive specifications—or equal—grantee's finality) (Air Products & Chemicals Inc.)

\*14. Sacramento, California (IX, 9-13-76) (restrictive specifications—or equal—grantee's finality) (Amoco Reinforced Plastics)

\*15. North Shore Sanitary District, Illinois (V, 9-28-76) (restrictive specifications—rejection of equipment—grantee finality rule) (Keene Corp.; Premier Electric Co.)

16. Deposit, New York (II, 10-5-76) (Albin Construction Co.)

\*17. Boynton Beach/Delray Beach, Florida (IV, 10-14-76) (oral protest) (Ecological Services Products)

\*18. Concord, North Carolina (IV, 10-14-76) (subtier—timely oral request but untimely written) (Air Products & Chemical Inc.)

19. Lynn, Massachusetts (I, 10-21-76) (A/E procurement; grantee finality rule) (Clinton Bogert Associates)

20. Baton Rouge, Louisiana (VI, 11-5-76) (restrictive specifications—subtier) (National Hydro Systems)

21. Detroit, Michigan (V, 11-10-76) (estoppel—bidder on second procurement to challenge rejection of all bids on first) (Lotebro Corp.)

22. Cleveland Regional Sewer District (Southerly Plant), Ohio (V, 11-15-76) (restrictive specifications) (Powercon Corp.)

23. Norwalk, Connecticut (I, 11-16-75) (letter to State) (Burnall Construction Co.)

\*24. Waterford, Connecticut (I, 12-28-76) (restrictive specifications—or equal; finality rule) (New Ikor I)

25. Fredonia, New York (II, 2-28-77) (restrictive specifications—subtier—equipment acceptability determination) (National Hydro Systems)

\*26. Waterford, Connecticut (I, 3-4-77) (restrictive specifications—or equal) (New Ikor II)

\*27. Dothan, Alabama (IV, 3-10-77) (restrictive specifications—or equal—grantee reversed) (Inflico Degremont)

28. Sioux City, Iowa (VII, 3-17-77) (restrictive specifications—rejection of shop drawings necessary) (Ralph Carter Co.; U.S. Enviro-Con)

29. Puerto Rico Aqueduct & Sewer Authority (II, 3-31-77) (carbon copy to local EPA office) (Blythe Industries Inc.)

30. Pasadena, Texas (VI, 4-1-77) (restrictive specifications—Subtier—grantee finality rule) (Union Carbide Corp.)

31. York, Pennsylvania (III, 4-22-77) (grantee finality rule stated) (Union Carbide Corp.)

32. Marion, North Carolina (IV, 5-17-77) (restrictive specifications—admission against interest), (Carolina Concrete Pipe)

33. Bernice, Louisiana (VI, 6-1-77) (restrictive specifications—subtier—performance data) (National Hydro Systems)

34. Bradford, Vermont (I, 6-6-77) (no simultaneous mailing; contract action as grantee's final act) (Carvel Co.)

35. Daytona Beach, Florida (IV, 6-14-77) (letter of intent to file—subsequent untimely filing) (Key Power Systems)

36. San Francisco, California (IX, 6-20-77) (A/E procurement—Newspaper column as notice) (McKee-Berger-Mansueto)

37. Parsippany-Troy Hills, New Jersey (II, 7-8-77) (knowledge of grantee finality from totality of facts) (Frank Briscoe)

38. Cayce, South Carolina (IV, 7-18-77) (restrictive specifications—pipe) (Southeastern Concrete)

39. Canonsburg-Houston Joint Authority, Pennsylvania (III, 7-2-77) (National Hydro Systems)

40. Cranberry Township, Pennsylvania (III, 9-30-77) (restrictive specifications—preapproval) (Bay-Con Corp.)

41. Pepperell, Massachusetts (I, 11-22-77) (not decisional—statement of notice rule) (Catamount Co.)

42. Ramsey, New Jersey (II, 12-2-77) (receipt of bid tabs does not start limitation period) (P. & A. Construction Co.)

*Waiver.*

1. Denver, (City) Colorado (VIII, 4-22-74) (price omission—subtier (1 item)) (Pinkard Donovan)

2. Manitowoc, Wisconsin (V, 12-18-74) (grantee cannot waive failure to include bid bond) (P. A. Lawrence Co.)

3. Alexandria, Virginia (III, 4-4-75) (non-computation of state taxes) (John C. Grimberg)

\*4. Woonsocket, Rhode Island (I, 6-20-75) (failure to complete EO 11246 Certification of prior work) (Westcott)

5. South Portland, Maine (I, 10-7-75) (pump data) (Pizzagalli Construction Co.)

6. Cleveland Regional Sewer District (Westerly Plant), Ohio (V, 11-3-75) (rejection of all bids context—supply of subitem) (Blount Brothers and Darin & Armstrong)

\*7. Sunnyvale, California (IX, 12-5-75) (handwritten prices; EO 11246 Certificate; corporate by-laws-signor of bid) (ABF Contractors)

8. Monroe, Washington (X, 12-31-75) (stated exception in bid to design specifications) (Will Construction Co.)

9. Cleveland Regional Sewer District (Westerly Plant), Ohio (V, 5-13-76) (subcontractor list-broker issue) (Blount Brothers)

\*10. St. Paul (Metropolitan Waste Control Commission), Minnesota (V, 12-3-76) (acknowledgement of addenda) (Kvalsten Electric)

11. Gregory, South Dakota (VIII, 1-4-77) (time schedule—work commencement and completion) (Schweigert Construction Co.)

\*12. St. Paul (Metropolitan Waste Control Commission), Minnesota (V, 5-3-77) (listing of equipment of suppliers; EO 11246 Certification; and unit price supplemental schedule—add/deduct price difference) (Palco; Kraus-Anderson)

13. Middlesex (Sayreville Relief Pump Station), New Jersey (II, 6-9-77) (bid mistake—bidder intent test) (Terminal Construction Co.)

14. Ft. Lauderdale, Florida (IV, 7-18-77) (price omission—subtier) (Inman Corp.)

\*15. Rawlins, Wyoming (VIII, 11-16-77) (late bid—5 minutes—other bids not opened) (Wind River Constructors Inc.)

[FR Doc. 78-18504 Filed 7-3-78; 8:45 am]



WEDNESDAY, JULY 5, 1978

PART V



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**DEPARTMENT OF  
LABOR**

**Office of the Secretary**



**YOUTH PROGRAMS  
UNDER THE  
COMPREHENSIVE  
EMPLOYMENT AND  
TRAINING ACT**

**Proposed Rule**

[4510-30]

## DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 97]

## YOUTH PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

## Proposed Rulemaking

AGENCY: U.S. Department of Labor.

ACTION: Proposed rules, changes and corrections.

**SUMMARY:** This document contains proposed amendments to the regulations for the Youth Community Conservation and Improvement Projects and the Youth Employment and Training Programs under the Youth Employment and Demonstration Projects Act of 1977 (YEDPA). The purpose of this publication is to clarify existing provisions, facilitating consistency among provisions and correcting typographical and compilation errors.

**DATES:** Comments must be received on or before July 31, 1978.

## FOR FURTHER INFORMATION CONTACT:

Robert Taggart, Administrator, Office of Youth Programs, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, phone 202-376-7449.

**SUPPLEMENTARY INFORMATION:** The Youth Employment and Demonstration Projects Act (YEDPA) of 1977, Pub. L. 95-93, became effective on August 5, 1977. It amended the Comprehensive Employment and Training Act (CETA) of 1973 by adding several new programs for youth. The purpose of these new programs is to employ and increase the future employability of young persons, to help coordinate and improve existing career development, employment and training programs, and to test different approaches in solving the employment problems of youth. YEDPA contains four distinct programs: (1) The Young Adult Conservation Corps (YACC) which emphasizes the participation of youth in needed conservation work on our Nation's public lands; (2) Youth Incentive Entitlement Pilot Projects (YIEPP) designed to test the effect of a year round structured work experience as an entitlement to encourage school completion; (3) Youth Community Conservation and Improvement Projects (YCCIP) designed to provide jobs and employment experience for youth in community betterment projects; and (4) Youth Employment and Training Programs (YETP) structured to make available to youth a broad range of employment and training services designed locally and adapted to local needs.

Section 702(a) of the Comprehensive Employment and Training Act

(CETA) states that the Secretary may prescribe rules and regulations as he deems necessary to carry out the purposes of CETA. Pursuant to this authority, the Department of Labor is setting forth in this document proposed changes to the Federal regulations governing two of the new youth programs, YETP and YCCIP.

Both programs are to be operated by CETA Title I prime sponsors, sponsors of CETA Native American programs, sponsors of CETA migrant and seasonal farmworker programs and such other agencies and/or organizations as designated by the Secretary under his discretionary authority. The regulations in this document do not apply to Native American and migrant YETP and YCCIP programs. These regulations also do not apply to the Secretary's YETP and YCCIP discretionary funds.

## SUMMARY OF PROPOSED CHANGES

Section 97.602, Definitions, paragraph (a) the definition of "appropriate labor organization" has been changed to clarify that a labor organization shall meet the definition if it has jurisdiction to represent employees in the eligible applicant's area in the same or substantially equivalent jobs as those under YCCIP.

Section 97.606, Reallocation of funds and § 97.607, Redistribution of funds, have been clarified to indicate that the RA shall initiate reallocation or redistribution procedures as appropriate. Previously, the reallocation and redistribution provisions of these sections stated that the RA may undertake such actions rather than stating that such actions are required under certain circumstances.

Section 97.610, Project planning process, paragraph (c) has been expanded to suggest the methods for notifying the public of the project application process and time frames for acceptance of project applications. Previously no provision on the methodology for public notification existed.

Section 97.613, Project approval, paragraph (a) has been expanded to require a review by the youth and planning councils of the project approval criteria established. This is a new provision.

Section 97.614, Project prioritization, paragraph (a)(2) has been omitted to eliminate the 25 percent limitation in ranking the additional approved project applications. A new paragraph (a)(2) has been added to state that any additional approved project applications may be ranked and submitted to the RA for consideration of future funding.

Section 97.615, Submission of the proposed plan, paragraph (b) has been changed to allow prime sponsors to submit two separate listings of proposed prioritized project applications,

(1) a primary listing of proposed projects not to exceed 100 percent of the program funding estimate, and (2) a secondary listing of proposed projects without dollar or number limitations for future funding consideration. The conditions under which additional approved project applications will be considered for future funding have also been included.

Section 97.616, Application for Federal Assistance, paragraph (b)(1) has been revised to increase the comment period for the appropriate labor organizations, from 15 to 30 calendar days.

Paragraph (b)(2) has been revised to indicate that the comment and publication procedures in § 95.15 of this title shall apply to YCCIP.

Section 97.623, Eligibility for participation, paragraph (a)(3) has been revised to clarify that an individual transferred from any other program under the Act must be age eligible at the time of his or her transfer into YCCIP.

A new paragraph (f) has been added to limit the enrollment of an individual for this program to a maximum of one year, with no more than two terminations and re-enrollment: *Provided*, That the age eligibility is met at the time of each re-enrollment. This provision reemphasizes the provision of § 97.611(c)(1) which requires all project applications to describe the expected duration of employment under each project and limits this duration to not more than 1 year.

Section 97.629, Materials, equipment, and supplies, paragraph (a) has been revised to clarify that the provisions of § 98.12(c) which prohibit the use of CETA funds for the costs of materials which become a part of the construction, do not apply to YCCIP projects.

Section 97.631, Limitation on the use of funds, paragraph (b)(3) has been revised to clarify that materials and supplies which become part of the construction project may be chargeable to a training costs category provided these costs are incurred for participants in either a work environment or classroom training.

Section 97.702, Definitions, paragraph (a) the definition of "appropriate labor organization" has been changed to clarify that a labor organization shall meet the definition if it has jurisdiction to represent employees in the eligible applicant's area in the same or substantially equivalent jobs as those under YCCIP.

Paragraph (c) the definition of a "community based organization," for YETP has been revised to clarify that the specific organizations listed in the regulations do not preclude other organizations that may be community based.

Section 97.704, Reallocation of funds, paragraph (b) and (d) has been



clarified to indicate that the RA shall initiate reallocation procedures as appropriate. Previously the provisions stated that such actions may be undertaken.

Section 97.705, Eligible applicant planning process, paragraph (b)(3) has been changed to more clearly define the role and responsibilities of the prime sponsors youth council.

Paragraph (c)(2)(i) has been changed to require that the plan be submitted to CBO's at least 30 days prior to the submission of the youth plan to the RA.

Paragraph (d) has also been changed to require that the plan be submitted to the appropriate labor organizations at least 30 days prior to the submission of the youth plan to the RA.

A new paragraph (e) has been added to provide a fair selection process and a publication process to bring the competition to the attention of community based and other eligible private non-profit organizations. Also included is a requirement for written notification to all applicants of subsequent funding or non-funding.

Section 97.709, Narrative description, paragraph (a) has been changed to include an occupational summary.

Section 97.711, Youth plan, review and approval, paragraph (a) has been changed to require that procedures stated in § 95.15 will be followed.

Section 97.714, Eligibility for participation, paragraph (c) has been revised to clarify that an individual transferred from any other program under the Act must be age eligible at the time of transfer into YETP.

Section 97.717, In-school programs, paragraph (b)(6) has been changed to reduce the time limit for signature of agreements with local educational agencies (LEA's) from 60 days to 45 days after submission to the RA. An option is being proved to allow for the certification of an existing or revised agreement.

Section 97.722, Governors' youth programs, paragraph (b) has been revised to include the reference to § 97.715 in determining eligibility for participation for the Governors' youth programs. This reference was inadvertently omitted in the publication of the final rules.

Accordingly, 29 CFR Part 97 are proposed to be amended as follows:

**Subpart G—Youth Community Conservation and Improvement Projects**

**§ 97.602 Definitions.**

(a) "Appropriate labor organization" shall mean a labor organization that has jurisdiction to represent employees in the eligible applicant's area in the same or substantially equivalent jobs as those proposed to be filled or already filled by YCCIP participants.

**§ 97.606 Reallocation of funds.**

The RA shall reallocate funds from one State to another when the RA determines that an eligible applicant will not be able to use the funds within a reasonable period of time and that no other eligible applicant within the same State will be able to effectively use the funds within a reasonable period of time. The notice and comment procedure described in § 98.11(d) of this title will apply to such reallocations, except that the reference in § 98.11(d) to § 98.11(c) (concerning reallocation based on need) does not apply.

**§ 97.607 Redistribution of funds.**

The RA shall redistribute funds, after a grant has been signed, from one eligible applicant to another within the State when:

**§ 97.610 Project planning process.**

(a) \*\*\*

(b) \*\*\*

(c) Each eligible applicant shall establish procedures for its own use and the use of any program agent(s) which will assure that potential project applicants (as defined in § 94.4 (ppp) of this title), particularly neighborhood and community-based organizations are notified of the project application process and the cut-off date for acceptance of project applications. The method of notification may be public hearings or public notice in newspapers, bulletins, or other appropriate media.

**§ 97.613 Project approval.**

(a) Criteria shall be established by the eligible applicant to be used consistently by itself and program agents for evaluating and approving project applications. These criteria are subject to review and comment by the Youth and Planning Councils.

**§ 97.614 Project prioritization.**

(a) \*\*\*

(1) \*\*\*

(2) It shall then rank those additional approved project applications, if any, for future funding consideration.

**§ 97.615 Submission of the proposed plan.**

(a) \*\*\*

(b) Each eligible applicant shall submit two separate lists of project applications prioritized in accordance with the provisions of § 97.614:

(1) A primary listing of prioritized proposed projects not to exceed 100 percent of the program funding estimate;

(2) A secondary listing of prioritized proposed projects without dollar or number limitations. This second listing will be considered for future funding in instances where:

(i) Projects submitted within the 100 percent are not acceptable to the RA;

(ii) A project is subsequently found to be non-productive or is withdrawn; or

(iii) Additional funds become available.

(3) Prime sponsors submitting a secondary listing will be given primary consideration for receipt of additional funding.

**§ 97.616 Application for Federal assistance.**

(a) \*\*\*

(b)(1) Where there is an appropriate labor organization, it shall be given either the complete proposed plan or a summary of the proposed plan which includes a list of all job classifications and wage rates and afforded 30 calendar days to make written comments to the eligible applicant prior to the submission of the proposed plan to the RA.

(2) The comment and publication procedures provided in § 95.15 of this title shall apply to YCCIP.

**§ 97.623 Eligibility for participation.**

(a) \*\*\*

(3) If at the time of enrollment into any other program under the Act, a 16- through 19-year-old youth was unemployed, that individual may be transferred into this program: *Provided*, The individual meets the age eligibility at the time of transfer.

(e) \*\*\*

(f) Each participant shall be limited to a maximum enrollment of 1 year with no more than two terminations and re-enrollments provided age eligibility is met at the time of each re-enrollment. However every effort should be made to transition participants into unsubsidized jobs or other CETA opportunities upon completion of the one year enrollment.

**§ 97.629 Materials, equipment, and supplies.**

(a) Funds may be expended subject to the limitation of § 97.631 for the acquisition, lease or rental of supplies, equipment and materials. The provisions of § 98.12(c) of this title which prohibits the use of funds for the costs of materials which become a part of the construction do not apply.

## § 97.631 Limitation on use of funds.

(a) \* \* \*

(b) \* \* \*

(3) Any remaining funds may be used for training of participants, materials, equipment, supplies, on-site supervisors, and supportive services, etc. Such materials and supplies which become a part of the construction project may be chargeable to a training cost category provided these costs are incurred for participants in either a work environment or classroom training.

## Subpart H—Youth Employment and Training Program

## § 97.702 [Amended]

(a) "Appropriate labor organization: Shall mean a labor organization that has jurisdiction to represent employees in the eligible applicant's area in the same or substantially equivalent jobs as those proposed to be filled or already filled by YETP participants.

(b) \* \* \*

(c) "Community based organization (CBO)" shall mean a private nonprofit organization which is representative of a community or of particular segments of a community and which can provide employment and training services. Such organizations may include but are not limited to Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, employer-related nonprofit organizations, neighborhood organizations, private nonprofit youth serving agencies concerned with youth employment and other similar organizations of demonstrated effectiveness.

## § 97.704 Reallocation procedures.

(a) \* \* \*

(b) The RA shall reallocate funds awarded to an eligible applicant if the RA determines that the eligible applicant will not be able to use the funds within a reasonable period of time as determined by the RA [section 354(b)].

(c) \* \* \*

(d) The procedures set forth in § 98.11(b) of this title shall apply to the reallocation of funds based on non-performance.

(e) If all proposed LEA agreements or certifications to existing agreements under a grant are not signed by the eligible applicant and the LEA(s) within 45 days after the initial submission of the YETP plan to the RA for review and approval, the RA shall initiate reallocation procedures for that portion of the 22 percent of the eligible applicant's funds which were required to be covered under LEA agree-

ments. The procedures set forth in § 98.11(d) apply to such reallocations.

## GRANT PLANNING, APPLICATION AND MODIFICATION PROCEDURES

## § 97.705 Eligible applicant planning process.

(b) \* \* \*

(3) The youth council shall advise the sponsor in setting basic goals, policies and procedures for its YEDPA subpart 3 program, make recommendations regarding program plans, and provide for continuing analyses of needs for employment, training and related services. The youth council will also monitor all YETP programs and evaluate youth programs in the prime sponsor area for the purpose of improving the utilization and coordination of the delivery of such services. The council shall make recommendations based upon its analyses to the prime sponsor.

(c) \* \* \*

(2) \* \* \*

(i) Thirty days prior to submission of the proposed youth plan to the RA either the complete youth plan or a summary of the proposed youth plan will be submitted to such CBO's. If a summary is submitted, it shall include at a minimum \* \* \*

(d) *Appropriate labor organizations.* Each eligible applicant shall afford appropriate labor organizations an opportunity to participate in the development of its youth plan by giving them an opportunity to comment on either the full youth plan or a summary of the youth plan which includes at least any proposed job classifications and wage rates. The plan or summary shall be sent to the appropriate labor organizations at least 30 days prior to the submission of the youth plan to the RA, and any comments received must be considered prior to the submission of the youth plan to the RA.

(e) *Competitive selection process.* (1) Except for in-school programs funded under the 22 percent LEA agreements, selection of service deliverers for program activities shall be based upon a fair and open process which provides for special consideration to community based and other eligible private nonprofit organizations, which can provide employment and training services in the prime sponsor's jurisdiction.

(2) Such a competitive process shall consist of the following elements:

(i) Announcement using appropriate media methods in order to bring the competition to the attention of community based and other eligible profit, and nonprofit organizations.

(ii) Use of published criteria to evaluate applications; and

(iii) Written notification to all applicants of subsequent funding or written explanation of the reasons for disapproval of funding.

## § 97.709 Narrative description; program and planning forms; additional documentation.

(a) \* \* \*

## (9) Occupational summary

\* \* \*

## § 97.711 Youth Plan, review and approval.

(a) Comment and publication procedures. The procedures of § 95.15 of this title shall apply to YETP.

\* \* \*

## § 97.714 Eligibility for participation.

\* \* \*

(c) If at the time of enrollment into any other program under the act, an individual met the eligibility requirements of paragraph (a) of this section, and is still age eligible, that individual is eligible to transfer from that other program into YETP, and into YETP career employment experience if the individual also meets the requirements of paragraph (b) of this section.

## § 97.717 In-school program

\* \* \*

(b) \* \* \*

(6) Agreements for the use of the in-school funds under this section must be signed by the eligible applicant and local educational agencies no later than 45 days after initial submission of the YETP plan to the regional office for review and approval. This may be a new agreement or a certification that the existing agreement remains the same or that it is revised as described in attachments to the certification. All certification and revision information shall be included as part of the YETP grant documentation. If an agreement is not reached within 45 days, the RA shall initiate the reallocation process as required by section 97.704 of this subpart.

## § 97.722 Governors' youth programs.

\* \* \*

(b) *Eligibility for participation.* Individuals participating in programs using funds allocated pursuant to § 97.703(b)(2) must meet the eligibility criteria provided in §§ 97.714 or 97.715 (sec. 345).

Signed at Washington, D.C., this 16th day of June 1978.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment and Training.

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